ers' Union, urging the prompt enactment of the Frazier-Lemke bill; to the Committee on Agriculture.

6196. Also, memorial of the Legislature of the State of Michigan, to provide a grant of $100,000 to construct a relief drainage canal to relieve the Sebewaing River Basin of its water bottom, which has caused annual floods in the village of Sebewaing and surrounding area and a property damage on March 5 of this year in excess of $175,000; to the Committee on Flood Control.

6197. By the SPEAKER: Petition of the Knights of Columbus, Cumberland Council, No. 586; to the Committee on Foreign Affairs.

6198. Also, petition of the Archdiocesan Union of the Holy Name Society of New Orleans; to the Committee on Foreign Affairs.

6199. Also, petition of the city of Manitowoc, Wis.; to the Committee on Foreign Affairs.

6200. Also, petition of the city of Chicago; to the Committee on Rivers and Harbors.

6201. Also, petition of the Federal Wholesale Druggists Association; to the Committee on Ways and Means.

6202. Also, petition of the Tennessee Coal Institute, Inc.; to the Committee on Ways and Means.

6203. Also, petition of the Washington State Bar Association; to the Committee on the Judiciary.

6204. Also, petition of the Bar Association of Fresno, Calif.; to the Committee on the Judiciary.

6205. Also, petition of the Townsend Old-Age Revolving Pension Club, No. 1; to the Committee on Ways and Means.

6206. Also, petition of the city of Campbell, Ohio; to the Committee on the Judiciary.

6207. Also, petition of the Lehigh Valley Arts Association; to the Committee on Education.

6208. Also, petition of Inwood Local of the Unemployment Council; to the Committee on the Judiciary.

6209. Also, petition of Townsend Club, No. 14; to the Committee on Ways and Means.

6210. Also, petition of the executive council of Townsend clubs, San Diego, Calif.; to the Committee on Ways and Means.

6211. Also, petition of the New York City I. C. O. R. Committee, to the Committee on the Judiciary.

6212. Also, petition of the city of Monterey Park, Calif.; to the Committee on Ways and Means.

SENATE

WEDNESDAY, APRIL 3, 1935

(Legislative day of Wednesday, Mar. 13, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, April 2, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Byrnes	Gibson	McGill
Ashurst	Capper	Glass	McKellar
Austin	Clark	Gore	McNary
Bachman	Connally	Guffey	Maloney
Bailey	Coolidge	Hale	Metcalf
Bankhead	Copeland	Harrison	Minton
Barbour	Costigan	Hatch	Moore
Barkley	Couzens	Hayden	Murphy
Bilbo	Cutting	Keyes	Murray
Black	Dickinson	King	Neely
Bone	Dieterich	La Follette	Norbeck
Borah	Donahey	Lewis	Norris
Brown	Duffy	Logan	Nye
Bulkley	Fletcher	Lonergan	O'Mahoney
Bulow	Frazier	Long	Pittman
Burke	George	McAdoo	Pope
Byrd	Gerry	McCarran	Radcliffe
Reynolds	Steiwer	Truman	Walsh
Robinson	Thomas, Okla.	Tydings	Wheeler
Russell	Thomas, Utah	Vandenberg	White
Schwellenbach	Townsend	Van Nuys	
Sheppard	Trammell	Wagner	

Mr. LEWIS. I announce that the Senator from Arkansas [Mrs. CARAWAY] and the Senator from Louisiana [Mr. OVERTON] are absent because of illness, and that the Senator from South Carolina [Mr. SMITH] is necessarily detained from the Senate.

Mr. AUSTIN. I announce that the Senator from Pennsylvania [Mr. DAVIS] is absent on account of illness; that the junior Senator from Minnesota [Mr. SCHALL] is absent on account of a death in his family; and that the Senator from Wyoming [Mr. CAREY] and the senior Senator from Minnesota [Mr. SHIPSTEAD] and the Senator from Delaware [Mr. HASTINGS] are absent on official business. I will let this announcement stand for the day.

Mr. McNARY. The Senator from California [Mr. JOHNSON] is absent on account of illness.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 255. An act for the relief of Margaret L. Carleton;

S. 274. An act for the relief of Charles C. Floyd;

S. 906. An act for the relief of Chellis T. Mooers;

S. 1391. An act for the relief of William Lyons;

S. 1520. An act for the relief of Charles E. Dagenett;

S. 1621. An act for the relief of Mrs. Charles L. Reed; and

S. 1694. An act for the relief of C. B. Dickinson.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 285. An act for the relief of Elizabeth M. Halpin;

H. R. 615. An act for the relief of Meta De Rene McLoskey;

H. R. 1291. An act for the relief of the Muncy Valley Private Hospital;

H. R. 1487. An act for the relief of H. A. Taylor;

H. R. 1488. An act for the relief of Rose Burke;

H. R. 1492. An act for the relief of Harbor Springs, Mich.;

H. R. 1965. An act for the relief of William E. Fossett;

H. R. 2126. An act for the relief of Hugh G. Lisk;

H. R. 2132. An act to extend the provisions of the United States Employees' Compensation Act to Frank A. Smith;

H. R. 2157. An act for the relief of Howard Donovan;

H. R. 2185. An act for the relief of the estate of Marcellino M. Gilmette;

H. R. 2204. An act for the relief of Robert M. Kenton;

H. R. 2353. An act for the relief of the Yellow Drivurself Co.;

H. R. 2422. An act for the relief of James O. Greene and Mrs. Hollis S. Hogan;

H. R. 2439. An act authorizing adjustment of the claim of the Public Service Coordinated Transport of Newark, N. J.;

H. R. 2443. An act for the relief of Milton Hatch;

H. R. 2449. An act for the relief of Floyd L. Walter;

H. R. 2464. An act for the relief of C. H. Hoogendorn;

H. R. 2473. An act for the relief of William L. Jenkins;

H. R. 2487. An act for the relief of Bernard McShane;

H. R. 2501. An act for the relief of Mrs. G. A. Brannan;

H. R. 2606. An act for the relief of the estate of Paul Kiehler;

H. R. 2679. An act for the relief of Ladislav Cizek;

H. R. 2680. An act for the relief of Mary F. Crim;

H. R. 2683. An act for the relief of Henry Harrison Griffith;

H. R. 2690. An act for the relief of John B. Grayson;

H. R. 2708. An act for the relief of James M. Pace;

H. R. 3090. An act for the relief of Mayme Hughes;

H. R. 3098. An act for the relief of Bertha Ingmire;

H. R. 3167. An act for the relief of Louis Alfano;

H. R. 3180. An act for the relief of Ruth Nolan and Anna Panozza;

H. R. 3219. An act for the relief of Joseph Walter Gautier;

H. R. 3275. An act for the relief of Fred L. Seufert;

H. R. 3370. An act for the relief of Carrie K. Currie, doing business as Atmore Milling & Elevator Co.;

H. R. 3506. An act for the relief of George Raptis;

H. R. 3512. An act for the relief of H. B. Arnold;

H. R. 3556. An act for the relief of Sophie Carter;

H. R. 3911. An act for the relief of Sarah J. Hitchcock;

H. R. 3959. An act for the relief of the National Training School for Boys and others;

H. R. 5882. An act for the relief of Claude Cyril Langley; and

H. R. 6453. An act to amend the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of waters of the Rio Grande", etc., as amended by the public resolution of March 3, 1927.

GOVERNMENT OF THE VIRGIN ISLANDS

The VICE PRESIDENT. Pursuant to Senate Resolution 98, the Chair appoints the Senator from Maryland [Mr. TYDINGS], the Senator from Utah [Mr. KING], the Senator from Missouri [Mr. CLARK], the Senator from Rhode Island [Mr. METCALF], and the Senator from Maine [Mr. WHITE] as the members of the Special Committee to Investigate the Administration of the Government of the Virgin Islands.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a concurrent resolution of the Legislature of the State of New York, favoring the prompt enactment of legislation establishing a sea-food distributing and marketing bureau for the purpose of protecting and encouraging the fisheries of the Atlantic coast, subsidizing the sea-food industry, and promoting the sale and consumption of sea food, which was referred to the Committee on Commerce.

(See concurrent resolution printed in full when presented today by Mr. COPELAND, p. 4898.)

The VICE PRESIDENT also laid before the Senate a concurrent resolution of the Legislature of the State of New York, favoring the enactment of pending legislation proclaiming October 11 in each year as General Pulaski's Memorial Day, which was ordered to lie on the table.

(See concurrent resolution printed in full when presented today by Mr. COPELAND, p. 4898.)

The VICE PRESIDENT also laid before the Senate the petition of Lizzie Skinner, of Williamsburg, Md., praying for the enactment of old-age-pension legislation, which was referred to the Committee on Finance.

Mr. CAPPER presented letters in the nature of petitions from the Central Labor Union, by W. E. Jones, recording secretary, of Kansas City, and Subordinate Lodge, No. 706, International Brotherhood of Boiler Makers, Iron Ship Builders and Helpers of America, by Harry Shaubell, secretary, of Coffeyville, both in the State of Kansas, praying for the enactment of the so-called "Wagner labor-disputes bill" and the "Black 30-hour work week bill", which were referred to the Committee on Education and Labor.

He also presented a petition of sundry employees of the Missouri Pacific Railroad Co., of Hoisington, Kans., praying for the enactment of the so-called "Wagner labor-disputes bill", which was referred to the Committee on Education and Labor.

He also presented a letter in the nature of a petition from Riley County Council, the American Legion, by Clyde Kingdom, commander, of Randolph, Kans., praying for the prompt passage of legislation providing for the cash payment of adjusted-service certificates of World War veterans, which was referred to the Committee on Finance.

He also presented a resolution adopted by Howard Burnett Post, No. 1520, Veterans of Foreign Wars, of Fort Dodge, Kans., favoring the enactment of the so-called "Patman bill", providing for immediate cash payment of adjusted-service certificates of World War veterans, which was referred to the Committee on Finance.

He also presented telegrams in the nature of petitions from the Auxiliary of Hanlin Kelly Post, No. 2258, by Mayme Gott, secretary, of Osawatomie, and Over There Auxiliary, by Mrs. Herman W. Mueller, legislative chairman, of Wichita, both of the Veterans of Foreign Wars, in the State of Kansas, praying for the enactment of the so-called "Patman bill" providing for immediate cash payment of adjusted-service certificates of World War veterans, which were referred to the Committee on Finance.

He also presented a resolution adopted by the Association of Mechanics, Helpers, and Laborers, of Newton, Kans., favoring the enactment of the so-called "Wheeler-Rayburn holding-company bill", which was referred to the Committee on Interstate Commerce.

Mr. WALSH presented a letter in the nature of a memorial from the Mercantile Affairs Committee of the Fitchburg (Mass.) Chamber of Commerce, remonstrating against the enactment of the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, which was referred to the Committee on Agriculture and Forestry.

He also presented a letter from Henry S. C. Cummings, of Boston, Mass., enclosing an article by Mr. Cummings entitled "Advocating the Decentralization and Revitalization of Surplus Gold Stocks", which, with the accompanying paper, was referred to the Committee on Banking and Currency.

He also presented a letter in the nature of a petition from Miss Grace D. Faulkner, secretary, Branch 12, A. F. H. W., of Northampton, Mass., praying for the enactment of the so-called "Wagner labor-disputes bill", which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of the State of Massachusetts, praying for the enactment of so-called "Wagner labor-disputes bill", which was referred to the Committee on Education and Labor.

He also presented a letter in the nature of a memorial from W. E. Buck, president of the Worcester Manufacturers Mutual Insurance Co., of Worcester, Mass., remonstrating against the enactment of Senate bill 1958, known as the "national labor-relations bill", which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of the State of Massachusetts, praying for the extension of the National Industrial Recovery Act, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Miami (Ariz.) Lions Club, favoring the imposition of an adequate tariff duty on importations of copper, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Braintree, Mass., remonstrating against the holding of naval maneuvers in the Pacific Ocean, which was referred to the Committee on Naval Affairs.

He also presented a resolution adopted by the Great Barrington (Mass.) Stamp Club, favoring the enactment of House bill 1411, relating to the illustrating of United States stamps, which was referred to the Committee on Post Offices and Post Roads.

He also presented a letter in the nature of a petition from Division No. 2, Ancient Order of Hibernians, of Rockland, Mass., favoring the enactment of pending legislation providing for the issuance of a special postage stamp to commemorate the one hundred and fiftieth anniversary of Commodore John Barry, which was referred to the Committee on Post Offices and Post Roads.

He also presented a letter in the nature of a memorial from the merchants' division of the Springfield (Mass.) Chamber of Commerce, remonstrating against the enactment of the so-called "Black 30-hour work week bill", which was ordered to lie on the table.

Mr. COPELAND presented a resolution adopted by the Warsaw (N. Y.) Board of Trade, favoring the enactment of the bill (S. 1629) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by motor carriers operating in interstate or foreign commerce, and for other pur-

poses, which was referred to the Committee on Interstate Commerce.

He also presented a resolution adopted at a meeting of the Parent-Teacher Association of Otisville, N. Y., favoring the establishment of a national film institute to encourage the production, distribution, and exhibition of motion pictures for visual education and suitable entertainment, which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of East Syracuse, N. Y., praying for the enactment of the joint resolution (H. J. Res. 167) proposing an amendment to the Constitution of the United States with respect to the declaration of war and the taking of property for public use in time of war, which was referred to the Committee on the Judiciary.

He also presented a letter in the nature of a memorial from Miss June Wooster, chairman-secretary, on behalf of the faculty and counsellors of the industrial department of the Young Women's Christian Association of Buffalo, N. Y., remonstrating against the enactment of legislation that might in any way interfere with freedom of speech, the press, and political liberty, which was referred to the Committee on the Judiciary.

He also presented a resolution adopted at a meeting of the Coat and Suit Code Authority in New York City, N. Y., favoring the extension of the National Industrial Recovery Act, which was referred to the Committee on Finance.

He also presented a resolution adopted by Lodge No. 89 of the South Slavonic Union, of Gowanda, N. Y., favoring the enactment of the so-called "Lundeen bill", being the bill (H. R. 2827) to provide for the establishment of unemployment, old-age, and social insurance, and for other purposes, which was referred to the Committee on Finance.

He also presented the following concurrent resolution of the Legislature of the State of New York, which was referred to the Committee on Commerce:

Senate Concurrent Resolution 100

Whereas approximately 4,000 persons rely upon the commercial fishing industry for their sole means of livelihood; and

Whereas upward of 6,000 persons are dependent upon the incomes of such persons; and

Whereas the sea-food industry has operated at a loss for several years last past and is seriously in need of aid which can come only as the result of increased consumer interest and the concomitant increase in consumption of sea food; and

Whereas it is highly desirable not only to subsidize this industry but also to devise ways and means of making fresh fish and sea food caught off the Atlantic coast by such fishermen available to the hundreds of thousands of persons living in the inland States at moderate prices; and

Whereas it is the sense of the people of the State of New York that some action and cooperation on the part of the Federal Government is absolutely necessary to promote the sale and consumption of sea food and thereby avoid the demoralization and destruction of the fishing industry: Now, therefore, be it

Resolved (if the assembly concur), That the Congress of the United States be, and it is hereby, respectfully memorialized to enact with all convenient speed legislation establishing a sea-food distributing and marketing bureau for the purpose of protecting and encouraging the fisheries of the Atlantic coast, subsidizing the sea-food industry and promoting the sale and consumption of sea food; and it is further

Resolved (if the assembly concur), That copies of this resolution be immediately transmitted to the Secretary of the United States Senate, the Clerk of the House of Representatives, and to each Member of Congress elected from the State of New York, and that the latter be urged to use their best efforts to accomplish the purpose of this resolution.

Mr. COPELAND also presented the following concurrent resolution of the Legislature of the State of New York, which was ordered to lie on the table:

Senate Concurrent Resolution 103

Whereas a resolution providing for the President of the United States of America to proclaim October 11 of each year as General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski is now pending in the present session of the United States Congress; and

Whereas the 11th day of October 1779 is the date in American history of the heroic death of Brig. Gen. Casimir Pulaski, who died from wounds received on October 9, 1779, at the siege of Savannah, Ga.; and

Whereas the States of Arkansas, California, Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Nevada, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, Wisconsin, and other States of the Union through legislative enactment designated October 11 of each year as General Pulaski's Memorial Day; and

Whereas it is fitting that the recurring anniversary of this day be commemorated with suitable patriotic and public exercises in observing and commemorating the heroic death of this great American hero of the Revolutionary War; and

Whereas the Congress of the United States of America has by legislative enactment designated October 11, 1929, October 11, 1931, October 11, 1932, and October 11, 1934, to be General Pulaski's Memorial Day in the United States of America: Now, therefore, be it

Resolved by the Senate and Assembly of the State of New York—

1. That we hereby memorialize and petition the Congress of the United States to pass, and the President of the United States to approve, if passed, the General Pulaski's Memorial Day resolution now pending in the United States Congress.

2. That copies of this resolution, properly authenticated, be sent forthwith to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives of the United States, and each of the United States Senators and Representatives from the State of New York.

Mr. GIBSON presented the following joint resolution of the Legislature of the State of Vermont, which was referred to the Committee on Foreign Relations:

Whereas the Department of State at Washington has given notice of intent to negotiate trade agreement with Canada; and

Whereas one of the principal, possibly the principal, item of export from Canada into the United States is softwood and hardwood lumber, rough and dressed. The greater part of it comes into our northeastern territory; and

Whereas the present tariff is $3 per thousand feet revenue and $1 per thousand feet excise tax; and should this tariff, through reciprocal agreement with Canada, be reduced or eliminated, the effect on our northeastern lumber manufacturers will be extremely serious. It will especially affect the lumber industry of the State of Vermont, as well as the other New England States, because the species produced in Canada and shipped into our territory are the same as we produce; and

Whereas the lumber manufacturers in the United States are obliged to operate under the Lumber Code, the present costs are higher than the cost of production of those Canadian species which are shipped into our markets; and

Whereas, because of this additional cost, it is absolutely necessary that a suitable duty be kept on the imported material; and

Whereas if the $3 or $4 duty should be removed it would have ill effects upon the lumber industry of the New England States: Therefore be it

Resolved by the senate and house of representatives, That the general assembly deplore any attempt of the State Department at Washington to remove the trade barriers with Canada and to allow Canadian lumber to come into the United States free or at a reduced rate of duty, believing the same to be against the best interests of our State; and be it further

Resolved, That copies of this resolution be sent to each member of the Vermont delegation at Washington and to the chairman of the committee for reciprocity information.

Mr. McCARRAN presented the following joint resolution of the Legislature of the State of Nevada, which was referred to the Committee on Military Affairs:

Senate joint resolution memorializing Congress to increase National Guard units within the State of Nevada and appropriate funds for the building of suitable armories for the housing of same

To the Congress of the United States:

Your memorialist, the Legislature of the State of Nevada, hereby respectfully represents that—

Whereas the plan of the Federal administration is to decrease unemployment through a large public-works building program; and

Whereas we feel that the State of Nevada should be authorized a substantial increase in National Guard personnel and that the State of Nevada should be allotted a sum of not less than $300,000 for the building of National Guard armories where needed in the State; and

Whereas we feel that the steps in this direction already taken by the present administration will be in consonance with the suggestion herein made, and that the same will hasten the hope and anticipations of our President for the benefit of a large portion of our population: Now, therefore, be it

Resolved by the Assembly and the Senate of the State of Nevada, That we respectfully request the Congress of the United States to set aside $300,000 for the building of National Guard armories within the State of Nevada and to authorize at least five additional units of the National Guard to the State of Nevada; and be it further

Resolved, That the secretary of state of the State of Nevada forward a properly certified copy of this memorial to the President of the United States Senate, to the Speaker of the House of Representatives, to each of our Senators in the United States Senate, and to our Representative in Congress.

Mr. McCARRAN also presented the following joint resolution of the Legislature of the State of Nevada, which was referred to the Committee on Naval Affairs:

Assembly joint resolution

Whereas for the past 4 years the general appropriation act of the State of Nevada has carried a biennial appropriation of $400 for the promotion of civilian rifle practice, to be expended under the direction of the adjutant general; and

Whereas such appropriation was authorized for the purpose of promoting civilian rifle practice within the State of Nevada in accordance with the act of Congress creating the board for the promotion of civilian practice in the United States; and

Whereas under the authority of such board civilian clubs have been organized and are now existing in the State of Nevada, whose purpose is the promotion of rifle practice, and such clubs have organized the "Nevada State Rifle Association", which cooperates with the adjutant general in the promotion of civilian rifle practice throughout the State of Nevada and holds annual rifle matches within this State and will continue to hold same; and

Whereas the sum which has heretofore been appropriated has been insufficient to cover the cost of holding such State rifle matches, and it is desirable to have additional assistance for such purposes: Now, therefore, be it

Resolved by the Assembly and the Senate of the State of Nevada, That the adjutant general be requested to communicate with the Secretary of the Navy, with the view of having a detail of enlisted men from the marine detachment now on duty at the naval ammunition depot at Hawthorne, Nev., assigned to temporary duty, not exceeding 3 days, on the occasion of the holding of such annual State rifle contest; and be it further

Resolved, That the adjutant general likewise address the commandant of such naval ammunition depot at Hawthorne, Nev., and the commander of the marine detachment at such point, requesting their aid and assistance in the promotion of such State rifle contest by arranging for matches between civilian rifle clubs of the State of Nevada and members of the marine detachment on duty at such depot; and be it further

Resolved, That the secretary of state transmit a certified copy of this resolution to the Secretary of the Navy at Washington, D. C., and to our Senators and Representative in Congress.

Mr. McCARRAN also presented the following joint resolution of the Legislature of the State of Nevada, which was referred to the Committee on Post Offices and Post Roads:

Assembly joint resolution memorializing Congress for the creation of a separate railway mail district to be located in the Federal building at Reno, Nev.

Whereas the State of Nevada is situated with high Sierra Nevada Mountains to the west, which effectually cut off transportation from all except one or two points, and even these are cut off completely during a considerable portion of the year when deep snow makes highways impassable. Only two railways cross this chain of mountains toward the west; and

Whereas to the east it is approximately 550 miles to the Utah line. The State extends north and south—or perhaps it would be better to say from the northwest to the southeast—a distance of approximately 650 miles; and

Whereas practically this entire territory is isolated from all parts of the United States, and we must depend for our economic and industrial existence almost entirely upon ourselves. Transportation in this immense district becomes very much of a problem and, we believe, cannot be adequately handled by persons residing from 300 to 600 miles distant; and

Whereas we citizens of Nevada believe we are not receiving our full share of service or monetary benefits due us by reason of supervision of the Railway Mail Service being located at such great distances away. We believe we should have a supervisory force of the Railway Mail Service located in this State; and

Whereas under the existing conditions the transportation of mails in Nevada is under the supervision of the chief clerk, District No. 3, located at San Francisco, and the chief clerk, District No. 1, Ogden, Utah. It has been the custom in the past of domiciling practically 90 percent of Nevada appointees in the Railway Mail Service at terminals, either in California or Utah, adjacent to their headquarters, for convenience and administrative purposes. Such practice results in appointees from Nevada losing their Nevada citizenship and becoming citizens of an alien State, their incomes, estimated at from $35,000 to $45,000 per annum, naturally being spent where they live instead of in their appointive State. Of a total of about 30 clerks and substitutes appointed from Nevada, only 6 clerks and 1 substitute are now domiciled within the geographical borders of this State. All other appointees, although working and earning their living in Nevada, are citizens of neighboring States. It is our opinion that this great territory of Nevada is sufficient for the creation of a separate railway mail district, under the supervision of a chief clerk, with office and personnel to be located in the Federal building at Reno: Now, therefore, be it

Resolved by the Assembly and Senate of the State of Nevada, That our Senators and Representative at Washington be urged to use their influence with the proper authorities for the creation of a new district to supervise and administer this region, as shown in the following outlines: Generally that portion of California situated on the eastern divide in drainage of the Sierra Nevada mountain range and extending from the Oregon line on the north to Owenyo, Calif., on the south; the counties of Humboldt, Washoe, Pershing, Lander, Eureka, Churchill, Storey, Lyon, Ormsby, Douglas, Mineral, Nye, and Esmeralda, in Nevada; all post offices, closed-pouch, or stage routes entering or terminating in same; all service on Ogden and San Francisco railway post offices between Reno and Carlin, Nev.; all service on Reno and Mina, Reno and Minden, Alturas and Reno railway post offices; and summer service on Truckee and Lake Tahoe railway post offices; and be it further

Resolved, That properly certified copies of this resolution be transmitted by the secretary of state to each of our Senators in the United States Senate and to our Representative in Congress.

Mr. McCARRAN also presented the following joint resolution of the Legislature of the State of Nevada, which was referred to the Committee on Public Lands and Surveys:

Assembly joint resolution memorializing Congress to purchase certain lands adjacent to Lake Tahoe, in the State of Nevada, for the establishment thereon of a park for recreational purposes, and for the establishment thereon of an emergency aviation field

Whereas the lands lying in the basin surrounding Lake Tahoe, taken together with the setting of the lake, constitute one of the grandest scenic beauties in the United States; and

Whereas the lands surrounding Lake Tahoe are rapidly coming into the hands of private parties who use the same for commercial purposes; and

Whereas the people of the State of Nevada and of the surrounding territory in the State of California feel that an area for recreational purposes should be set aside for the benefit of the people visiting this scenic playground; and

Whereas said sites would be of great value to the Government of the United States in case of emergency as a landing field for aircraft; and

Whereas there is now available a limited area of suitable land; and

Whereas the said tracts are almost on a direct air line between the city of San Francisco and the Federal munitions plant at Hawthorne, Nev.; and

Whereas there are six improved highway routes leading to the Lake Tahoe region from the States of Nevada and California; and

Whereas the State of Nevada does not have within its boundaries any public parks, recreation grounds, or aviation fields: Now, therefore, be it

Resolved by the Assembly and the Senate of the State of Nevada, That Congress be memorialized to make an appropriation in the sum of $150,000 for the purchase and improvement of an area, and that the Public Works Administration be directed to assist in making such an area applicable for the purpose hereinbefore set out; and be it further

Resolved, That our Senators in the United States Senate and our Representative in Congress be urged to use their best efforts in the furtherance of the objects of this resolution; and be it further

Resolved, That duly certified copies of this resolution be transmitted by the secretary of state of the State of Nevada to each of our Senators and to our Representative in Congress.

REPORTS OF COMMITTEES

Mr. AUSTIN, from the Committee on the District of Columbia, to which was referred the bill (S. 405) for the suppression of prostitution in the District of Columbia, reported it with amendments and submitted a report (No. 404) thereon.

Mr. DIETERICH, from the Committee on the Judiciary, to which was referred the bill (S. 477) to provide for the appointment of two additional judges for the southern district of New York and two additional judges for the southern district of California, reported it with amendments and submitted a report (No. 405) thereon.

Mr. TRAMMELL, from the Committee on Naval Affairs, to which was referred the bill (H. R. 5576) to authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes, reported it without amendment and submitted a report (No. 407) thereon.

Mr. WALSH, from the Committee on Naval Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 880. A bill for the relief of Dominick Edward Maggio (Rept. No. 408); and

S. 882. A bill for the relief of Albert Lawrence Sliney (Rept. No. 409).

Mr. WHEELER, from the Committee on Indian Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 1531. A bill to credit the Fort Belknap Indian tribal funds with certain amounts heretofore expended from tribal funds on irrigation works of the Fort Belknap Reservation, Mont. (Rept. No. 410); and

S. 1532. A bill to credit the Crow Indian tribal funds with certain amounts heretofore expended from tribal funds on irrigation works of the Crow Reservation, Mont. (Rept. No. 411).

APPROPRIATIONS FOR THE DISTRICT OF COLUMBIA

Mr. THOMAS of Oklahoma. From the Committee on Appropriations I report back favorably, with amendments, the bill (H. R. 3973) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1936, and for other purposes, and I submit a report (No. 406) thereon. I desire to give notice that at the earliest possible date I will call the bill up for consideration by the Senate.

The VICE PRESIDENT. The bill will be placed on the calendar.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BARBOUR and Mr. MOORE:

A bill (S. 2491) authorizing preliminary examination and survey of Shark River, N. J.; to the Committee on Commerce.

By Mr. SHEPPARD:

A bill (S. 2492) to provide further for membership on the Board of Visitors, United States Military Academy; to the Committee on Military Affairs.

By Mr. THOMAS of Oklahoma:

A bill (S. 2493) for the relief of John Hamilton; to the Committee on Military Affairs.

A bill (S. 2494) for the relief of the heirs of George Spybuck, deceased; to the Committee on Claims.

By Mr. McADOO:

A bill (S. 2495) to provide for signs on the roofs of certain railroad stations; to the Committee on Interstate Commerce.

(Mr. BLACK introduced Senate bill No. 2496, which was referred to the Committee on Interstate Commerce, and appears under a separate heading.)

By Mr. KING:

A bill (S. 2497) to control and regulate the discharge or emission of smoke, soot, noxious gases, cinders, or fly ash into open air in the District of Columbia, and to provide for the inspection, control, and regulation of steam boilers and unfired pressure vessels in the District of Columbia; and

A joint resolution (S. J. Res. 97) authorizing the appropriation of funds for the maintenance of public order and the protection of life and property during the convention of the Imperial Council of the Mystic Shrine in the District of Columbia June 8, 1935, to June 17, 1935, both inclusive; to the Committee on the District of Columbia.

AMENDMENT OF RAILWAY LABOR ACT

Mr. BLACK. I ask unanimous consent to introduce a bill to amend the Railway Labor Act. This amendment, if passed, will bring within the purview of that act the employees of aviation throughout the country.

The VICE PRESIDENT. Without objection, the bill will be received and appropriately referred.

The bill (S. 2496) to amend the Railway Labor Act, was read twice by its title and referred to the Committee on Interstate Commerce.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated below:

H. R. 285. An act for the relief of Elizabeth M. Halpin;

H. R. 615. An act for the relief of Meta De Rene McLoskey;

H. R. 1291. An act for the relief of the Muncy Valley Private Hospital;

H. R. 1487. An act for the relief of H. A. Taylor;

H. R. 1488. An act for the relief of Rose Burke;

H. R. 1492. An act for the relief of Harbor Springs, Mich.;

H. R. 1965. An act for the relief of William E. Fossett;

H. R. 2126. An act for the relief of Hugh G. Lisk;

H. R. 2132. An act to extend the provisions of the United States Employees' Compensation Act to Frank A. Smith;

H. R. 2157. An act for the relief of Howard Donovan;

H. R. 2185. An act for the relief of the estate of Marcellino M. Gilmette;

H. R. 2204. An act for the relief of Robert M. Kenton;

H. R. 2353. An act for the relief of the Yellow Drivurself Co.;

H. R. 2422. An act for the relief of James O. Greene and Mrs. Hollis S. Hogan;

H. R. 2439. An act authorizing adjustment of the claim of the Public Service Coordinated Transport of Newark, N. J.;

H. R. 2443. An act for the relief of Milton Hatch;

H. R. 2449. An act for the relief of Floyd L. Walter;

H. R. 2464. An act for the relief of C. H. Hoogendorn;

H. R. 2473. An act for the relief of William L. Jenkins;

H. R. 2487. An act for the relief of Bernard McShane;

H. R. 2501. An act for the relief of Mrs. G. A. Brannan;

H. R. 2606. An act for the relief of the estate of Paul Kiehler;

H. R. 2679. An act for the relief of Ladislav Cizek;

H. R. 2680. An act for the relief of Mary F. Crim;

H. R. 2683. An act for the relief of Henry Harrison Griffith;

H. R. 2690. An act for the relief of John B. Grayson;

H. R. 2708. An act for the relief of James M. Pace;

H. R. 3090. An act for the relief of Mayme Hughes;

H. R. 3098. An act for the relief of Bertha Ingmire;

H. R. 3167. An act for the relief of Louis Alfano;

H. R. 3180. An act for the relief of Ruth Nolan and Anna Panozza;

H. R. 3219. An act for the relief of Joseph Walter Gautier;

H. R. 3275. An act for the relief of Fred L. Seufert;

H. R. 3370. An act for the relief of Carrie K. Currie, doing business as Atmore Milling & Elevator Co.;

H. R. 3506. An act for the relief of George Raptis;

H. R. 3512. An act for the relief of H. B. Arnold;

H. R. 3556. An act for the relief of Sophie Carter; and

H. R. 3959. An act for the relief of the National Training School for Boys, and others; to the Committee on Claims.

H. R. 5882. An act for the relief of Claude Cyril Langley; to the Committee on Military Affairs.

H. R. 3911. An act for the relief of Sarah J. Hitchcock; and

H. R. 6453. An act to amend the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande", etc., as amended by the public resolution of March 3, 1927; to the Committee on Foreign Relations.

PROTECTION AGAINST SOIL EROSION—AMENDMENT

Mr. GORE submitted an amendment intended to be proposed by him to the bill (H. R. 7054) to provide for the protection of land resources against soil erosion, and for other purposes, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

CUSTODY AND PRINTING OF FEDERAL PROCLAMATIONS, ETC.—AMENDMENT

Mr. FLETCHER submitted an amendment intended to be proposed by him to the bill (H. R. 6323) to provide for the custody of Federal proclamations, orders, regulations, notices, and other documents, and for the prompt and uniform printing and distribution thereof, which was referred to the Committee on the Judiciary and ordered to be printed.

REGULATION OF TRAFFIC IN FOOD, DRUGS, AND COSMETICS—AMENDMENTS

Mr. McKELLAR submitted an amendment, and Mr. CLARK submitted three amendments, intended to be proposed by them, respectively, to the bill (S. 5) to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drink, drugs, and cosmetics, and to regulate traffic therein; to prevent the false advertisement of food, drink, drugs, and cosmetics, and for other purposes, which were ordered to lie on the table and to be printed.

PLEBISCITE ON PHILIPPINE CONSTITUTION

Mr. TYDINGS. Mr. President, I ask to have printed in the RECORD a proclamation of Acting Governor General J. R. Hayden of the Philippine Islands calling for a plebiscite to pass upon the new Philippine Constitution recently adopted, and also a cablegram from General Aguinaldo of the Philippine Islands asking that the transition period be shortened from 10 to 3 years.

There being no objection, the proclamation and cablegram were ordered to be printed in the RECORD, as follows:

PROCLAMATION

Whereas on the 23d day of March 1935 the President of the United States certified that the constitution of the Philippines, with the ordinance appended thereto, adopted by the constitutional convention called and held under the authority of the act of Congress of March 24, 1934, being Act 127 of the Seventy-third Congress of the United States, conforms substantially with the provisions of said act;

Whereas the said Act of Congress requires that within 4 months after such certification the said constitution, with the ordinance appended thereto, shall be submitted to the people of the Philippine Islands for their ratification or repeal at an election to be held on such date and in such manner as the Philippine Legislature may prescribe;

Whereas it is considered advisable that a special session of the Philippine Legislature be called for the purpose of passing the necessary legislation for the submission of said constitution, with the ordinance appended thereto, to the people of the Philippine Islands: Now, therefore

I, Joseph Ralston Hayden, Acting Governor General of the Philippine Islands, by virtue of the authority vested in me by section 18 of the act of Congress of August 29, 1916, hereby call the Philippine Legislature in special session to be held in the city of Manila for a period of 3 days beginning on Monday, the 8th day of April 1935, to consider the enactment of the legislation necessary for the submission of the constitution of the Philippines, with the ordinance appended thereto, to the people of the Philippine Islands, at an election to be held for said purpose, and for the canvassing and certification of the results thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the government of the Philippine Islands to be affixed.

Done at the city of Baguio this 27th day of March, A. D. 1935.

J. R. HAYDEN,
Acting Governor General.

MANILA, *April 2, 1935.*

Senator TYDINGS,
Washington, D. C.

Respectfully remind you of and ask your support our petition shortening transition period Independence Act to 3 years. Substantially accord with Concurrent Resolution No. 46, Philippine Legislature, adopted October 17, 1933, rejecting H. H. C. Act and sending mission of which I was chosen honorary president, and also with people's sentiment expressed last general elections. If necessary we also request you ask Quezon mission express its views about these facts. Our petition if granted will cause political social economic stability Philippines. Our people are anxious know your views and recommendations regarding our petition and amendments independence law. We further request release report investigation conducted by your mission here while Quezon mission still there, so that they, as representatives Philippines, may comment your recommendations. Will appreciate your furnishing President Roosevelt copy this cablegram.

EMILIO AGUINALDO.

THE PHILIPPINE CONSTITUTION (S. DOC. NO. 43)

Mr. TYDINGS. Mr. President, I ask unanimous consent to have printed as a Senate document the authenticated copy of the constitution of the Philippine Islands recently approved by the President of the United States.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

EXPENDITURE OF RELIEF FUNDS IN PUERTO RICO

Mr. TYDINGS. I should like to read a three-page letter touching on the expenditures of relief funds in Puerto Rico, because the program is so large that I feel Senators ought to know what is contemplated to be done under Puerto Rico's share of the public-works bill. The letter is addressed to me by Mr. Carlos E. Chardon, and reads as follows:

PAN AMERICAN UNION,
Washington, D. C., March 12, 1935.

Hon. MILLARD E. TYDINGS,
Chairman Committee on Territories and Insular Affairs,
Senate Office Building, Washington, D. C.

DEAR SENATOR TYDINGS: Allow me to correct the erroneous impression that the reconstruction program of Puerto Rico is only going to benefit 750 cane planters (which are to be moved to good cane lands) and 7,500 homesteaders (in the marginal cane lands).

The objectives of the sugar program are more far-reaching to the island's economy: (1) It attempts to reduce permanently the sugar production by exchange of good lands for marginal and submarginal sugar lands; (2) as soon as restriction is accomplished through this exchange the rest of the industry can go ahead normally without any restriction and sugar could be produced at a cheaper cost; (3) land monopoly would be partially broken; (4) the production of food crops would be greatly increased in the 75,000 acres of marginal lands; and (5) a temporary legislation like the Sugar Act could be converted into a permanent reconstruction policy. This would be going farther ahead than any legislation of a similar nature in the continent.

The following would be the results of the sugar program at the end of 2 years (the complete program taking 3 years to be fully developed):

Sugar program—Results at end of second year

Permanent reduction (in tons of sugar)	100,000
Number of colonos whose gross income will increase from 25 to 33 percent	500
Additional gross income to these colonos (1½ percent more for cane ground and 30 cents per ton saved in transportation)	$1,020,000

This is the portion in particular which I thought was worthy of the attention of the Senate:

Additional pay rolls to laborers in sugar regions and marginal lands in house and other construction (2 years)	$3,625,000
Additional employment, laborers	13,475
Persons taken away from relief rolls (above x 5.7)	76,800
New 10-acre homesteads	5,000
Concrete houses for laborers and homesteaders	7,500
Additional vocational educational units	30
Increase in school attendance, close to	5,000
White-collar jobs (administration of homesteads, social workers, vocational teachers, etc.)	250
Additional acreage in food crops	30,000
Homesteaders on a subsistence basis (with families)	28,500
Savings in imports of food crops, $30 per acre (theoretical)	$600,000

During the third year the permanent reduction of sugar could be increased to 150,000 tons or more, and the full benefits of the sugar program could then be felt by the industry, the farmers, and the workers. But this covers only sugar.

The coffee program of our plan we calculate will yield the following results at the end of the second year:

Pay rolls to coffee laborers at $156 a year (8,000 the first year; 8,000 the second year)	$2,496,000
Pay rolls to laborers in house constructions, minimum	$2,400,000
Additional employment, laborers	16,500
Coffee farmers will receive in cash (for purchase of land)	$600,000
Coffee farmers will receive fertilizers for demonstration (tons, in 2 years)	3,000
New 3-acre plots for laborers	8,000
Concrete houses for laborers	8,000
Persons taken away from relief rolls	95,000
White-collar jobs	175
Additional vocational educational units	20
Increased school attendance (about)	3,500
Homesteaders on a subsistence basis (with families)	45,600
Insurance fund for coffee plantations (minimum)	$5,000,000

This covers only the sugar and coffee programs up to the end of the second year. The whole program contemplates also extensive development of the hydroelectric system, rural electrification, a tobacco program similar to that of coffee, and extensive public-works program, a 10-year reforestation plan, industrial development, tourist trade, slum clearance, and many other projects of minor character. The plan recommends an expenditure of $103,000,000.

A program of such wide nature which contemplates so fundamental changes in Puerto Rico's economy can be only carried out under an authority directly under the President, with wide and ample administrative powers and completely divorced from political influence. The administration of the authority may be safely placed in the hands of responsible Puerto Ricans.

In my judgment, the funds going to Puerto Rico under the big relief bill should not be spent in "relief and work relief", as section 1 of said bill now provides; they should be diverted through definite channels leading to a permanent and definite reconstruction policy.

The opportunity for Puerto Rico is now unique in our history. The President has made a formal public commitment to this program, and the plan itself has been approved by the Departments of Agriculture and Interior. I therefore wish to present these facts to you as Chairman of the Committee on Territories and Insular Possessions for your consideration.

Sincerely yours,

CARLOS E. CHARDON.

It is a very far-reaching plan which is in contemplation for Puerto Rico, and we ought not to allow the expenditure of a huge sum like this to go through without at least being

put on notice. I hope Senators will read the letter as it will appear in the RECORD.

PUBLIC-UTILITY HOLDING COMPANIES

Mr. NORRIS. Mr. President, last night the Senator from Montana [Mr. WHEELER] delivered an address over the radio on the holding-company bill now pending before the Interstate Commerce Committee of the Senate. I desire to quote one paragraph from that address, and I wish to say before I quote it that I am informed that, although the address was delivered only last night, yet by 12 o'clock noon today the Senator from Montana received more than a thousand telegrams from Philadelphia in regard to that paragraph. It is quite enlightening, and I think Senators ought to hear it. The Senator from Montana said:

I hope the good people of Philadelphia are listening to me tonight. You know I have an ever-growing warm spot in my heart for Philadelphia. More letters have come out of that metropolis with my name on them in the last month than I have received from my home State of Montana during the last 2 years. As a matter of fact I am sure the census taker was wrong about Philadelphia's population because his figure does not compare with the number of letters they have sent me. Nice chummy letters, too. They call me everything from such high-class terms as "rogue" and "rascal" on down the scale. Most of them show the fine hand of the United Gas Improvement Co. The best of them must have come from Gertrude Stein. It consists of this: "It makes me sick to think how sick I get when I think about you." Such popularity must be deserved. I have however been strangely neglected by Mr. Insull's Chicago. It must be that that city has been Insull-ated against my charm.

Mr. President, I ask unanimous consent that the entire address be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

RADIO ADDRESS BY SENATOR BURTON K. WHEELER, OF MONTANA, APRIL 2, 1935, ON THE PUBLIC UTILITY HOLDING COMPANY BILL

I am going to talk to you tonight about the public-utility holding-company bill pending before both branches of the United States Congress, the bill to carry out President Roosevelt's ideas and policies on public-utility holding companies.

I hope the good people of Philadelphia are listening to me tonight. You know, I have an ever-growing warm spot in my heart for Philadelphia. More letters have come out of that metropolis with my name on them in the last month than I have received from my home State of Montana during the last 2 years. As a matter of fact, I am sure the census taker was wrong about Philadelphia's population, because his figure does not compare with the number of letters they have sent me. Nice chummy letters, too. They call me everything, from such high-class terms as "rogue" and "rascal" on down the scale. Most of them show the fine hand of the United Gas Improvement Co. The best of them must have come from Gertrude Stein. It consists of this: "It makes me sick to think how sick I get when I think about you." Such popularity must be deserved. I have, however, been strangely neglected by Mr. Insull's Chicago. It must be that that city has been Insull-ated against my charm.

There has been more lying propaganda about this bill, and on a larger scale, than about any other bill I have ever seen. The Power Trust has tried to make investors believe that the holding-company bill imposes what they call a "death sentence" on all the private companies in the electric light and power industry. It keeps talking about the "wreck of a $12,000,000,000 industry." That's bunk. The holding companies' title affects only the public-utility holding companies themselves, companies like Associated Gas & Electric, Cities Service, Electric Bond & Share, North American Co., and United Corporation. It doesn't lay a finger on the kind of a company which actually operates the electric light and power plant in your home town, and in which many of you have invested your savings.

The public utility holding company is a kind of high finance company which makes a business of acquiring control of the companies which actually run the electric light and power plants in your home town. Sometimes a single holding company run by a few insiders controls thousands of such electric light and power plants. Those thousands of local electric light and power plants may be scattered all over the country, but the heads of the holding company run them all for their own advantage from an office in New York, Chicago, or some other big financial center. Perhaps a better name for them would be "public utility holding-the-bag companies."

Usually these insiders get control of numerous local companies with the investment of very little money of their own. There are extreme cases where investments of less than $50,000 control subsidiary utility investments having face values in excess of a billion dollars. There was a case reported the other day by a New York State legislative committee investigating holding companies where insiders sold the public $100,000,000 of holding company securities in 1 year at a profit to themselves of thirty-four million. That illustrates the way a few people through a holding company can use other people's money. And how well they have succeeded the figures show. In 1932 thirteen large holding company groups controlled over 75 percent of the private operating utility industry. Three of these groups alone, Electric Bond & Share, United Corporation, and Insull controlled among themselves over 40 percent of that entire operating industry.

The holding company promoters manage to do this through the help of clever lawyers and the hocus-pocus corporate device called the holding company. The holding company buys control of the voting stock of the local power and light company. Then the insiders get control of the voting stock of the holding company. They sell a lot of other securities which haven't any right to vote to the outside public. "Outside" describes the public exactly. The poor suckers who buy that kind of a security are outside the company and outside their money at the same time.

Will Rogers remarked the other day: "A holding company is something where you hand an accomplice the goods while the policeman searches you." The same kind of pressures that are being brought on you as investors were immediately brought on Will to retract. He did retract in the papers last Sunday in his inimitable way: "Well, I didn't figure that little half-witted remark would upset the whole holding company business. But I forgot that a remark generally hurts in proportion to its truth. If it's so untrue as to be ridiculous why nobody pays any attention to it." I will wager that the holding company crowd will now try to make Will retract his retraction.

Now, it's that kind of company that this bill is after. The bill does not hurt operating companies or the securities of operating companies in the slightest. It benefits operating companies by taking off their backs the load of the tribute they have now to pay to holding companies.

The holding company insiders who are trying to block the President on this title keep telling you that it interferes with operating companies. That's bunk. They tell you that it will confiscate investments in the securities of operating companies. That's also bunk. They try to tell you that it will confiscate investments in the holding companies themselves. And even that's bunk.

The arguments of these holding-company advocates are complicated when they argue at all. I am not able to take up point by point the technical defects in their misleading position during this half-hour talk. But in a speech I made last Thursday in the Senate I did answer those complicated arguments. That speech is in printed form. If you will write me at my office in Washington, D. C., I'll send you that speech.

Remember the public utility business is not a private business subject to the normal restraints of competition. It is a legalized monopoly given special privileges by local government to serve public ends. Regulation is supposed to protect the public consumer and public investor against that monopoly. But no local community and no State can handle these giant corporations with all their tremendous resources of money and lawyers and political power which this holding device has assembled. We are now testing whether even the Nation itself is strong enough to stand against them.

The argument that we should try to distinguish between "good" companies and "bad" companies forgets how human and how variable and how temporary are the causes which make one company "good" and another company "bad." An overnight change of management can transform a company that has hitherto been the best in the business into the worst. A change in the outlook of the same man once changed the best company in the utility business into the worst. The holding company advocates assure us that the Insull abuses will never occur again. But there was not a single man in the utility business who would not have recognized Samuel Insull in 1914 as the best operator in the field and the safest bet for the investor's money. But bad banking influences changed Samuel Insull from a careful and conservative manager into a Napoleon of high finance. The continuation of the supposed "goodness" of what is generally held up as the best of the holding companies today depends on the direction of a single individual. His fortunes in turn are tied up in the operation of a series of investment trusts of none too savory reputation. If the depression had not intervened to stop the pyramided operations of these investment trusts, that company might very well have gone the disastrous way of Insull.

The truth is that there is no scientific reason at the present time why we need holding-company systems sprawled over the whole United States. We do not need or want utility combinations that aren't confined to the service of an area where they are needed to tie together a group of related operating companies. The only death sentence the bill pronounces on holding companies is to say, "You've got to trim down to what's absolutely necessary to serve the public if you want to go on doing business in this country. You've got to do that for the sake of the consuming public. You've got to do that for the sake of the investing public who have always mistakenly thought that through you they were investing in a sound and useful and regulated operating business." I don't know or care whether you call legislation which does that "elimination" or "regulation." But any kind of legislation that will not restrict the use of the holding device to a field where it performs a demonstrably useful and necessary function would not be regulation at all. It will simply give recognition under the screen of a few puny rules to a dangerous business of stock jobbing and insiders' profits that has no place in the modern operating utility business and has no justification to exist. That kind of so-called "regulation" the utilities are proposing is not real regulation—it is simply camouflage for the toleration of an entrenched wrong.

Let's not stick our head in a sand of regulatory words and miss the big realities. If we mean business these utility empires have got to be shorn of their present tremendous powers. If we mean business these utility empires have got to be brought down to proportions where they are manageable by the public and can justify their usefulness for the public good. If they are left as big as they are now, all the piddling rules in the world masquerading under the big name of regulation won't stop their repeating the abuses of 1929 as soon as they get a chance. All those little rules will no more hold them than a single strand of barbed wire can hold the weight and power of an Army tank. Within 1 year they'll again be regulating their regulators.

I'm like the holding companies—I have doubts about this bill. But my doubts are whether it goes far enough to be realistic. I remember how Congress and the reformers glowed with achievement when they passed the Sherman Anti-Trust Act, the Clayton Act, and other similar legislation. But if those acts had done half what they promised they would have nipped this holding-company business in the bud long ago. A democratic community cannot cut too fine with private empires which threaten its very existence. You can no more risk regulating a giant holding company than you can risk domesticating a rattlesnake. Any compromising with this problem will be simply a cowardly betrayal of Congress's duty because of fear of power-trust money in the next election. And I can tell the power gang that even the greenest new deal Member of Congress has no illusions that he can purchase their forbearance in his next campaign by running away from this bill. He knows, and every "new dealer" and Progressive in Washington knows, that between the power gang and us there can be no peace, now, in 1936, or ever.

In his message of March 12, the President gave investors in both holding-company and operating-company securities assurances that their interests would not be harmed by the bill. You may remember that he said, "So much has been said through chain letters and circulars and by word of mouth that misrepresents the intent and purpose of a new law that it is important that the people of the country understand once and for all the actual facts of the case. Such a measure will not destroy legitimate business or wholesome and productive investment. It will not destroy a penny of actual value of those operating properties which holding companies now control and which holding-company securities represent insofar as they have any value. On the contrary, it will surround the necessary reorganization of the holding company with safeguards which will, in fact, protect the investor."

In his broadcast of February 17, Mr. RAYBURN, who introduced the bill in the House, gave you the same assurances. Tonight as the sponsor of the bill in the Senate I give you the same assurances. Who tells you the bill will hurt your investments? Those same people who sold you stock at somewhere around 100, the same stock that is probably now selling somewhere around 2. They're urging you to stick with them, so they can save that 2 for you after they lost the 98.

Now, Mr. Investor, as a matter of common sense, which advisers are you going to trust? Which are you going to believe? I don't promise you that your stock will go back to 100 if this bill goes through. I'm not selling green goods; I'm not a holding company. But I do tell you that you have a much better chance to save what is really left of your investment if this bill passes than if the holding-company managers and bankers are free to waste the last of it by the same high finance.

I would not talk so roughly and bluntly, if the power companies and American big business in general were not putting on a desperate, insidious campaign of misleading misstatements regarding the objects of this bill, in the hope that frightened investors will bring such pressure on Members of Congress that those Members will be afraid to think for themselves.

It is an old strategy of tyrants to persuade their victims to fight their battle for them. They hide behind the skirts of their indispensable widows and orphans, and say to Congress, "No matter how bad we have been, no matter how dangerous we are, you can't touch us. Although we fooled them, a great proportion of the solid people of this country bought our securities. So you've got to leave us alone."

The lobby against this bill is not only working hard in Washington; it is working hard in every community in the country, and working in the most insidious and unsuspected ways. Holding-company managers and bankers, whose jobs and profits and whose control over your jobs and over your business may be at stake under this bill, hold in the palm of their hand nearly the entire operating utility industry of this country. As I've told you before, in 1932, 13 large holding-company groups controlled over 75 percent of the electric operating utility industry, and 3 of these groups alone—Electric Bond & Share, United Corporation, and Insull—controlled among themselves over 40 percent of that entire operating industry. That means that the managers of the giant holding companies hire and fire the manager of the little power plant in your home town. They hire and fire all its employees. They hire and fire the local lawyers who have the much-prized utility-company retainer. In many instances they control banks and dictate the policies of the local newspapers. And directly or indirectly, crudely or subtly, you can be sure they have passed orders all the way down that line to frighten you—to frighten you by direct statements; to frighten you by long, technical booklets of financial and legal arguments, carefully calculated to impress you, but not to be understandable to you; to frighten you at lunch; to frighten you at tea; to frighten you in the course of many of the most innocent contacts, where you would never expect you were being reached, even if only by simply repeating over and over again, "This terrible bill is going to ruin everybody."

An employee of your local power and light company has probably long ago come to your door and told you what a terrible bill this is and asked you to sign a letter. He may have been the employee of an Electric Bond & Share subsidiary who wrote me this letter I am going to read to you:

"DEAR SIR: Please find enclosed printed matter which is given to all employees of the power and light company. Also a card which they are asked to have signed by four voters.

"They are also asking all employees to write a letter to each Congressman in the Senate and House of Representatives who are on the Committee on Interstate Commerce. Then he must bring them all to the power and light company office to be checked. These men resent this very much, but they know they had better do as asked or their jobs will be endangered. I mention this to you so that when you get a flood of letters you will know how and why you received them. I am 100 percent behind your Wheeler-Rayburn bill, and sincerely hope you put it over."

Every time Congress proposes to look into a particularly rotten situation hush-hushers try to tell us that public airing of rottenness hurts business confidence. When my late distinguished colleague, Senator Walsh, investigated the Fall-Doheny oil scandal and when at the same time I began to investigate Harry Daugherty's Department of Justice, the conservative press belabored both of us for upsetting and even attempting to destroy the Government. When the Banking and Currency Committee of the Senate started its investigation of high finance which produced the Securities and Exchange Act there was a hue and cry that the investigation would bring runs on all the banks and that any attempt to regulate the stock markets would bring on a panic such as the country had never known. I have been pressing recently for an investigation of railroad financing. The lobbyists are trying to block it on the ground that exposure of the facts would ruin the railroad credit, forgetting conveniently the fact that the railroads have no credit now except at the Reconstruction Finance Corporation. Congress has learned, I hope, that the truth helps, not hurts, business confidence.

As for the threats of socialism and communism alleged to be hidden in this bill, many of us share a firm conviction that it is only by laws like this that we can avert a destruction of the traditionally American independence and initiative. This bill tried to break down business units grown so big and so dangerous that, if left that way, the Government will inevitably have to take them over and socialize them. The bill tries to save them from socialization—tries to preserve them for private enterprise. When any private socialism—and that is what these giant superholding companies amount to—gets too big, the people will demand its abolition or that the people take it over.

The only way we can save capitalism in this country is to encourage a decentralized system of moderate-sized businesses in which enough men have the status of master, not of servant or peasant, and where no one man or little group of men can so blanket any field of endeavor that other men have little or no opportunity.

The people of this country no longer revere the mysterious abilities of great benevolent captains of finance and industry whom they once thought knew how to run billion-dollar businesses for the public benefit. The people have learned for good and all that the accumulation of vast powers by the supercaptains of industry has done the public no good; I hope the people have learned for good and all that abilities capable of running billion-dollar industries do not exist. There is real hope that we can maintain indefinitely a decentralized democratic capitalism in this country. There is no hope that we can indefinitely maintain the kind of centralized plutocratic capitalism which has definitely proved itself morally and intellectually incapable of honest leadership for the benefit of the many.

Every morning and every evening, and even at noon here in Washington, my favorite newspaper publisher amuses me with warnings of the Communist propaganda which is sapping the foundations of our social order. But let us not deceive ourselves. Soap-box orators, parlor pinks, labor agitators, and bespectacled professors do not endanger American institutions. Revolutionary changes are not brought about by oratory but by a long growing sense of oppression. The utility holding company with its present powers has been an instrument and a symbol of imperial oppression in the industry and has utterly failed tc serve the public interest in any way, shape, or form. It has given unwarranted economic power over other people's wealth to unscrupulous stock manipulators. They in turn have used that power unfairly, unwisely, and even corruptly for their own advantage. It has been an instrument by which a few men have been able to set up a system of private socialism, which has crowded our boasted individual enterprise and local initiative out of one of the most important of our industries.

It has been a leader in a general trend of American business which, in the words of the President, "has made most American citizens once traditionally independent owners of their own businesses hopelessly dependent for their daily bread upon the favor of a very few." If any of you think that trend can long continue to humiliate a traditionally independent people, I tell you that I know it can't.

I believe that democracy belongs to the future, with its boundless hopes and possibilities. Some day in America autocracy will be no man's land, a bleak and barren region of darkness upon whose portals should be inscribed, "Abandon hope all ye that

enter here." Democracy is "all men's land", the land of the future, spanned by the everlasting rainbow of hope, "where thrones have crumbled and kings are dust, where labor reaps its full reward, and work and worth go hand in hand."

COMPULSORY R. O. T. C. TRAINING—ARTICLE BY LT. COL. ORVEL JOHNSON

Mr. FLETCHER. Mr. President, in view of conditions of which we are aware, abroad and at home, we should give reasonable encouragement to the R. O. T. C. Lt. Col. Orvel Johnson has discussed this subject in an article which is impressive and sound and should have wide circulation, and I ask to have it inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES SUPREME COURT DECIDES FEDERAL CONSTITUTION NOT VIOLATED BY STATE SCHOOLS REQUIRING STUDENTS TO TAKE MILITARY TRAINING, REGARDLESS OF "CONSCIENTIOUS OBJECTIONS." DUTY OF ALL CITIZENS TO BEAR ARMS NOT ALTERED BY BRIAND-KELLOGG PEACE PACT

(By Orvel Johnson, lieutenant colonel Inf-Res., director general, R. O. T. C. Association of the United States, member of the bar of Oklahoma, the District of Columbia, and the Supreme Court of the United States)

A most important and far-reaching decision was handed down by the United States Supreme Court December 3, 1934, in the case of Hamilton et al. against The Regents of the University of California, in which the Justices were unanimous in their opinion. Mr. Justice Butler delivered the opinion of the Court. This case came up on appeal from a judgment of the highest court of California sustaining a State law that requires students at its university to take a course in military science and tactics, the validity of which was by the appellants challenged as repugnant to the Constitution and laws of the United States.

The parties to the suit were Albert W. Hamilton, a minor, by Albert Hamilton, his guardian ad litem; W. Alonzo Reynolds, Jr., a minor, by W. Alonzo Reynolds, his guardian ad litem; Albert Hamilton and W. Alonzo Reynolds, appellants, against The Regents of the University of California, Robert Gordon Sproul, and Ernest Carroll Moore.

The appellants are the above-named minors and the fathers of each as his guardian ad litem and individually. They are taxpayers and citizens of the United States and of California. Appellees are the regents constituting a corporation created by the State to administer the university, its president, and provost. Appellants applied to the State supreme court for a writ of mandate compelling appellees to admit the minors into the university as students. The material allegations of the petition are:

In 1933 each of these minors became students in the university, conforming to all its requirements other than that compelling him to take the course in military science and tactics in the Reserve Officers' Training Corps (R. O. T. C.), which they asserted to be "an integral part of the Military Establishment of the United States"; that "the courses in military training are those prescribed by the War Department"; and that the "arms, equipment, and uniforms for use of students in such courses are furnished by the War Department of the United States Government."

"These minors are members of the Methodist Episcopal Church and connected religious societies and organizations. For many years their fathers have been ordained ministers of that church."

The Methodist Church has for years vigorously opposed all military training and other preparation for national defense, together with all forms of military service. At its general conference in 1928 it declared: "We renounce war as an instrument of national policy because our Nation led the nations of the world in signing the Paris peace pact (Briand-Kellogg) * * *." In 1932 the general conference of that church adopted as a part of its tenets and discipline: "* * * Furthermore, we believe it to be the duty of the churches to give moral support to those individuals who hold conscientious scruples against participation in military training or military service."

Appellants as members of that church and feeling bound by its tenets and discipline petitioned the university for exemption from military training and activities of the training corps, upon the ground of their religious and conscientious objections to war and military training. Their petition was denied by the regents of the university, who refused to make military training optional or to exempt these students. Several other allegations of the petition may be disregarded as not important.

The university is a land-grant college by its acceptance of the terms and conditions of an act of Congress, known as the "Morrill Act", approved July 2, 1862 (12 Stat. 503), under which public lands were donated to the several States in order that upon the conditions specified all moneys derived from the sale of such lands or from the sale of scrip issued under the act should be invested and constitute a perpetual fund the interest of which should be inviolably appropriated by each State accepting the benefits of the act "to the endowment, support, and maintenance of at least one college where the leading objects shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of industrial classes in the several pursuits and professions in life."

March 23, 1868, the Legislature of California passed an act creating the university "in order to devote to the largest purposes of education the benefactions made to the State" by the Morrill Act. Statutes 1867–1868, page 248, paragraph 5, reads: "And in order to fulfill the requirements of said act of Congress, all able-bodied male students in the university, whether pursuing full or partial courses in any college, or as students at large, shall receive instruction and discipline in military tactics in such manner and to such extent as the regents shall prescribe."

The State constitution, as amended November 5, 1918, makes effective the provisions of the Morrill Act. September 15, 1931, pursuant to the above act and constitution, the regents issued their order requiring "every able-bodied student * * * as a condition of his attendance as a student to enroll in and complete not less than one and one-half units of instruction in military science and tactics each semester of his attendance until such time as he shall receive a total of six units of such instruction * * *."

In the court below appellants assailed the laws and order above referred to as repugnant to the California constitution, the regents' order, and the Constitution and laws of the United States.

The State court denied the petition for a writ of mandate. Appellants applied for a rehearing. The court, denying the application, held the regents were within their lawful power in issuing their order, and that the suspension of the students because of their refusal to pursue the required courses in military training involved no violation of their rights under the Constitution of the United States.

Mr. Justice Butler, speaking for the court, said: "Appellees contend that this court has no jurisdiction because, as they say, the regents' order is not a 'statute of any State' within the meaning of paragraph 237 (a), Judicial Code. But by the California constitution the regents are, with exceptions not material here, fully empowered in respect of the organization and government of the university, which, as it has been held, is a constitutional department or function of the State government (*Williams* v. *Wheeler* (1914), 23 Cal. App. 619, 623; *Wallace* v. *Regents* (1925), 75 Cal. App. 274, 277). The assailed order prescribes a rule of conduct and applies to all students belonging to the defined class. And it was because of its violation that the regents by resolution suspended these students.

"The meaning of 'statute of any State' is not limited to acts of State legislatures. It is used to include every act legislative in character to which the State gives sanction, no distinction being made between acts of State legislatures and other exertions of the State law-making power. *King Mfg. Co.* v. *Augusta* (277 U. S. 100); *Sultan Ry. Co.* v. *Dept. of Labor* (277 U. S. 135). It follows that the order making military instruction compulsory is a statute of the State within the meaning of paragraph 237 (a).

"The allegations of the petition do not mean that California has divested itself of any part of its power solely to determine what military training shall be offered or required at the university. While, by acceptance of the benefits of the Morrill Act of 1862 and the creation of the university in order appropriately to comply with the terms of the grant, the State became bound to offer students in that university instruction in military tactics, it remains untrammeled by Federal enactment and is entirely free to determine for itself the branches of military training to be provided, the content of the instruction to be given, and the objectives to be attained. That State—as did each of the other States of the Union—for the proper discharge of its obligations as beneficiary of the grant made the course in military instruction compulsory upon students. Recently Wisconsin and Minnesota have made it elective. The question whether the State has bound itself to require students to take the training is not here involved. The validity of the challenged order does not depend upon the terms of the land grant.

"The petition is not to be understood as showing that students required by the regents' order to take the prescribed course thereby serves in the Army or in any sense becomes a part of the Military Establishment of the United States. * * * The States are interested in the safety of the United States, strength of its military forces, and readiness to defend them in war and against every attack of public enemies. *Gilbert* v. *Minnesota* (254 U. S. 325, 328–329); *State* v. *Holm* (139 Minn. 267, 273).

"Undoubtedly every State has authority to train its able-bodied male citizens of suitable age appropriately to develop fitness, should any such duty be laid upon them * * *. And when made possible by the National Government, the State in order more effectively to teach and train its citizens for these and like purposes may avail itself of the services of officers and equipment belonging to the Military Establishment of the United States. So long as it is within retained powers and not inconsistent with an exertion of the authority of the National Government and transgresses no right safeguarded to the citizen by the Federal Constitution, the State is sole judge of the means to be employed and amount of training to be exacted for the effective accomplishment of these ends. Second amendment, *Houston* v. *Moore* (5 Wheatl, 16–17. *Dunne* v. *The People* (1879) (94 Ill. 120, 129). * * *

"The clauses of the fourteenth amendment invoked by appellants declare: 'No State shall make or enforce any law which shall adbridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law.' Appellants' contentions are that the enforcement of the order prescribing instruction in military science and tactics abridges some privilege or immunity covered by the first clause and deprives of liberty safeguarded by the second. The 'privileges and immunities' protected are only those that belong to citizens of the States—those that arise

from the Constitution of the United States as contrasted with those that spring from other sources. *Slaughter-House cases*, (16 Wall. 36, 72–74, 77–80). *McPherson* v. *Blacker* (146 U. S. 1, 48)." Numerous other cases cited.

"The fact that they are able to pay their way in this university but not in any other institution in California is without significance upon any constitutional or other question involved. California has not drafted or called them to attend the university. They are seeking education offered by the State and at the same time insisting that they be excluded from the prescribed course solely upon grounds of their religious beliefs and conscientious objections to war, preparations for war, and military education. Taken on this basis of the facts alleged in the petition, appellants' contentions amount to no more than an assertion that the due-process clause of the fourteenth amendment as a safeguard of 'liberty' confers the right to be students in the State university free from obligation to take military training as one of the conditions of attendance.

"Viewed in the light of our decisions, that proposition must at once be put aside as untenable.

"Government, Federal and State, each in its own sphere, owes a duty to the people within its jurisdiction to preserve itself in adequate strength to maintain peace and order and to assure the just enforcement of law. And every citizen owes the reciprocal duty, according to his capacity, to support and defend government against all enemies. (*Selective Draft Law Cases*, supra, p. 378; *Minor* v. *Happersett*, 21 Wall. 162, 166.)

"*United States* v. *Schwimmer* (279 U. S. 644) involved a petition for naturalization by one opposed to bearing arms in defense of country. Holding the applicant not entitled to citizenship, we said (p. 650): 'That it is the duty of citizens by force of arms to defend our Government against all enemies whenever necessity arises is a fundamental principle of the Constitution. * * * Whatever tends to lessen the willingness of citizens to discharge their duty to bear arms in the country's defense detracts from the strength and safety of the Government."

Mr. Justice Butler cites and quotes at length *United States* v. *MacIntosh* (283 U. S. 605), a later naturalization case, in which the applicant was unwilling, because of conscientious objections, to take unqualifiedly the statutory oath of allegiance, and as in the case above, the application was denied. The Court disposed of that case in these words: "No other conclusion is compatable with the well-nigh limitless extent of the war powers as above illustrated, which include to compel the armed service of any citizen in the land, without regard to his objections or his views in respect of the justice or morality of the particular war or war in general.

"In *Jacobson* v. *Massachusetts* (197 U. S. 11, 19) this Court (upholding a State compulsory vaccination law), speaking of the liberties guaranteed to the individual by the fourteenth amendment, said: '* * * and yet he may be compelled, by force if need be, against his will and without regard to his personal wishes or his pecuniary interests, or even his religious or political convictions, to take his place in the ranks of the Army of his country and risk the chance of being shot down in its defense.'

"And see *Pearson* v. *Coale* (— Md. —, 167 Atl. 54), a case similar to that now before us, decided against the contention of a student in the University of Maryland who on conscientious grounds objected to military training there required. His appeal to this Court was dismissed for want of a substantial Federal question (290 U. S. 597).

"Plainly, there is no ground for the contention that the regents' order requiring able-bodied male students under the age of 24, as a condition of their enrollment, to take the prescribed instruction in military science and tactics, transgresses any constitutional right asserted by these appellants."

"The contention that the regents' order is repugnant to the Briand-Kellogg peace pact requires little consideration. * * * Clearly, there is no conflict between the regents' order and the provisions of this treaty." Affirmed.

Mr. Justice Cardoza, after noting his concurrence in the Court's opinion as delivered by Mr. Justice Butler, said: "* * * the petitioners have not been required to bear arms for any hostile purposes, offensive or defensive, either now or in the future * * *. If they resort to an institution for higher education maintained with the State's moneys, then, and only then, they are commanded to follow courses on instruction believed by the State to be vital to its welfare * * *.

"Manifestly a different doctrine would carry us to lengths that have never yet been dreamed of. The conscientious objector, if his liberties were to be thus extended, might refuse to contribute taxes in furtherance of war, whether for attack or defense, or in furtherance of any other end condemned by his conscience as irreligious or immoral. The right of private judgment has never been exalted above the powers and the compulsions of the agencies of government. One who is a martyr to a principle—which may turn out in the end to be a delusion or error—does not prove by his martyrdom that he has kept the law.

"I am authorized to state that Mr. Justice Brandeis and Mr. Justice Stone join in this opinion."

REGULATION OF TRAFFIC IN FOOD, DRUGS, AND COSMETICS

The Senate resumed consideration of the bill (S. 5) to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drink, drugs, and cosmetics, and to regulate traffic therein; to prevent the false advertisement of food, drink, drugs, and cosmetics; and for other purposes.

Mr. COPELAND. Mr. President, through an inadvertence yesterday the amendment offered by the Senator from Missouri [Mr. CLARK] was not quite correctly included in the reprint of the bill. It is correctly set forth in the RECORD. I have talked with the Senator from Missouri, so what I am saying is in full accord with his views.

On page 2 of the new print of the bill, line 19, before the first word "medicinal", the word "no" should be inserted.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 2, line 19, before the word "medicinal", it is proposed to insert the word "no", so as to make the paragraph read:

(c) The term "cosmetic" includes all substances and preparations, except soaps or household cleansers for which no medicinal or curative qualities are claimed by the manufacturers or retailers in labels or advertisements, intended for cleansing, or altering the appearance of, or promoting the attractiveness of, the person.

The VICE PRESIDENT. Without objection, the amendment is agreed to. The question is on the engrossment and third reading of the bill.

Mr. COPELAND. Mr. President, on page 10 of the old print——

Mr. VANDENBERG. Mr. President, will the Senator from New York yield?

Mr. COPELAND. Certainly.

Mr. VANDENBERG. I should like to have the Vice President know that there are a large number of amendments pending, and there will be no anxiety about final passage of the bill.

The VICE PRESIDENT. The Chair saw in the RECORD that all committee amendments had been agreed to, and the bill has therefore reached the stage of engrossment and third reading. Naturally the only question that can be before the Senate is the engrossment and third reading of the bill until some Senator offers an amendment. The Chair will deprive no Senator of an opportunity to offer amendments. The Senator from Michigan may be assured of that.

Mr. BORAH. Mr. President, I understand the Senator from New York is going to recur to section 303 on page 10 of the bill?

Mr. COPELAND. That is correct. I am going to offer an amendment to that section.

Mr. BORAH. Very well.

Mr. COPELAND. On page 10, line 15, in the new print, line 11 of the old print——

The VICE PRESIDENT. The Senator from New York will permit the Chair to make a statement. The parliamentary clerk suggests that Senators use the old print. There are parliamentary reasons for so doing.

Mr. COPELAND. Very well. On page 10 of the old print, line 11, after the word "vegetables", I move to strike out the period and insert the words "and no standard of identity for fresh apples and fresh pears."

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 10, line 11, after the word "vegetables", it is proposed to insert the words "and no standard of identity for fresh apples and fresh pears", so as to make the proviso read:

Provided, That no standard of quality shall be established for fresh fruits and fresh vegetables, and no standard of identity for fresh apples and fresh pears.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. TRAMMELL. Mr. President, I should like to submit an inquiry to the Senator from New York. Why should the Senator select one class of fruit and omit others? We are very much interested in the question in my State. Why select apples and omit other classes of fresh fruit?

Mr. COPELAND. Does the Senator want me to say frankly why? In all friendliness to the Senator and to the State which in part he represents, and of which I am a part-time citizen——

Mr. TRAMMELL. We are very proud of that fact.

Mr. COPELAND. I suggest the Senator do not press the matter.

Mr. TRAMMELL. Very well.

Mr. McNARY. Mr. President, I have a letter from the Rogue River Traffic Association of Medford, Oreg., relating to the matter just now suggested by the Senator from New York. I should like to have the clerk at the desk read the letter, and then I shall be glad to have a comment by the Senator from New York.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

ROGUE RIVER VALLEY TRAFFIC ASSOCIATION,
Medford, Oreg., March 29, 1935.

Hon. CHAS. L. MCNARY,
Senate Office Building, Washington, D. C.

Proposed food and drugs bill, S. 5, committee print no. 3 (now committee print no. 4)

DEAR SIR: In behalf of the pear and apple producers of this district, we wish to protest the passage of the above-mentioned act in its present form. It is our position that the bill should be amended in at least three particulars, which are vital to said producers.

First. Apples and pears at least should be exempted from "Standards of identity" in section 303. The Secretary of Agriculture should not be granted the power to fix the sugar, acid, and solid content of these fruits, raised under all the varying differences of varieties, soil, weather conditions, age, and care of trees, etc., in a country as vast as the United States. In our judgment all fresh natural foods should be exempted, but certainly apples and pears. Otherwise, varieties and sections could be eliminated from marketing, either in whole or in part, depending on how high the standard was fixed. In fact, there would always be grave danger in any such standard of identity.

Second. The court review section (702) should be so rewritten as to insure an interested party, a defendant, or a claimant of goods in the event of seizure, his full day in court on all of the facts underlying or surrounding the Secretary's regulations and any new scientific or other facts that may have developed since the regulation was promulgated. That right is not now given by section 702. The right of review by the courts is now very much limited and circumscribed, and the citizen does not have his full day in court as he does under the present law. Primarily, what is now proposed is government by promulgated regulations without a full right of review of those regulations on all of the facts.

Third. The bill should be further amended so that an interested party (fruit growers or others) can initiate proposed amendments to regulations. As it is, the Secretary alone is required to initiate regulations and amendments. Neither a citizen nor the advisory committees can initiate anything. It is all in the hands of the Secretary.

The foregoing amendments are vital to the citizen and in no way affect the purity of food.

We respectfully request that you use your influence to have the bill so changed as to meet the above objections.

Yours very truly,
ROGUE RIVER VALLEY TRAFFIC ASSOCIATION,
By W. J. LOOKER, *Secretary.*

Mr. McNARY. Mr. President, after we have order on the floor of the Senate I should like to make a request.

The PRESIDENT pro tempore. The Senator from Oregon asks for order.

Mr. BORAH. For order on the floor.

Mr. McNARY. I particularly specified order on the floor, and I think if the Presiding Officer should indicate a desire to have order we would have it.

The PRESIDENT pro tempore. The Senator from Oregon desires order in the Chamber. The Chair may state that the Senate makes its own rules; it knows its own rules, and the Chair is satisfied that the Members of the Senate do not desire to disobey the rules.

Mr. McNARY. The letter which has been read is very clear, and covers the situation which I should like to have the Senator from New York discuss and describe if he will.

Mr. BORAH. Mr. President, I desire to ask the Senator a question. Practically the same letter came to me from the Traffic Association of Idaho. I do not understand what change is desired in section 702. The letter which has been read is not clear to me, although it is in the same terms as the letter I have received. I do not know what the letter is asking for with reference to court procedure. I wonder if those writing the letters had the latest print.

Mr. COPELAND. I think I know what is desired by the writer of the letter.

Mr. BORAH. Very well.

The PRESIDENT pro tempore. Does the Senator from Oregon yield to the Senator from New York?

Mr. McNARY. I yield the floor.

Mr. COPELAND. Mr. President, the writer of this letter complains of a provision in the bill which he thinks should be corrected. He speaks about differences in climate and soil and their effects upon apples. He fears the Department may attempt to establish a standard of identity for this product and that it might distress the apple-growers.

I have just presented, and there was adopted, an amendment, that no standard of identity for fresh apples and fresh pears shall be established.

Mr. BORAH. May I ask just what is the amendment which has been adopted? How does it read?

Mr. COPELAND. On page 10, beginning at line 13 with the word "*Provided*", the amendment reads:

Provided, That no standard of quality shall be established for fresh fruits and fresh vegetables, and no standard of identity for fresh apples and fresh pears.

That takes care of the first criticism of the writer.

The next criticism is due to the failure of the writer of the letter to realize that another amendment has been inserted in the bill. The writer said in his letter, as I understood it, that there is provided no opportunity for an industry or a group of citizens to make any move to secure a new regulation, or to change an existing one.

If Senators who are interested will look in the old print of the bill, on page 32 it will be seen that we have inserted an amendment to which I shall refer in a moment.

Let me say, as introductory to what I am about to remark, that in the original bill as presented, the Secretary of Agriculture was granted arbitrary power. If he should think overnight of something he might want to put in the form of a regulation, he could formulate and enforce that regulation. We were not willing, and I say for myself I was not willing, to have such power reposed in any individual. Therefore the bill was changed so that a regulation cannot be made until the Secretary has first decided that it is needed. Then he transmits the proposed regulation, in the case of foods, to an advisory committee of 7, appointed by the President, 2 of whom shall be from food industries, so there will be a certainty that in the committee hearing affected industries will be represented. Then, if the advisory committee decides that the proposed regulation is a reasonable one and ought to be given consideration, a public hearing is held.

In short, the advisory committee has first passed upon the proposed regulation. Industry is represented on the committee; but, even after that, the regulation goes back to the Department in order that there may be a public hearing, that all parties in interest may be heard. Then, after it has been determined that a regulation is necessary, it goes back to the committee, and a majority of the committee must say "yes; that is a good regulation." All this must be done before it may be promulgated.

The writer of this very intelligent letter, however, makes the very just complaint, if it were well founded, that there is no opportunity for an industry to make an appeal for a regulation or for a change in a regulation. Senators will find on page 32 of the bill, beginning at line 15, the language I am about to read. This part of the bill relates to a function of the committee of which I have spoken:

Having received from an interested industry or from representatives of the public a request for a new regulation or a change in an existing regulation, either committee—

That is, either the public health committee or the food committee—

on its own motion, may advise the Secretary of its recommendations for action in accordance with the procedure set up by this section.

So I may say to the able Senator from Oregon that the criticism which was transmitted to us by the writer of the letter has been met and answered by the language I have read.

LOUISIANA'S CONTRIBUTION THAT HAS SPREAD INTO A PLAN FOR AMERICAN RESTORATION

Mr. LONG addressed the Senate. His remarks appear on p. 5014.

REGULATION OF TRAFFIC IN FOODS, DRUGS, AND COSMETICS

The Senate resumed the consideration of the bill (S. 5) to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drink, drugs, and cosmetics and to regulate traffic therein, to prevent the false advertisement of food, drink, drugs, and cosmetics, and for other purposes.

Mr. COPELAND. Mr. President, the Senator from California [Mr. JOHNSON] is not present, but a number of days ago he showed me the suggestion of a change which, so far as I am concerned, I am glad to have made, and the Department feels the same way about it. It is on page 27, line 18.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. NORRIS. I should like to say to the Senator from New York that the Senator from California has been ill for several days, which is the reason why he has been absent from the Senate.

Mr. COPELAND. Yes; I understood the Senator was ill, and it was because of that fact that I wanted to make sure the amendment which he showed to me is given attention by the Senate.

It is the desire of the Senator offering the amendment that in the court's review of a regulation it shall be very clear that the court shall go to the heart of the matter as regards the facts upon which the regulation was based. To make sure of this it is suggested by Senator JOHNSON that in line 18, on page 27, we strike out the language in italics in the original bill, "in the light of the facts", and that in line 19 we strike out the first word "with", and that at the end of line 18 there be added "with the facts or", so the language would read:

If it is shown that the regulation is unreasonable, arbitrary, or capricious, or not in accordance with the facts or law.

I move the adoption of that amendment.

Mr. KING. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. KING. What suggestion does the Senator make with respect to the words "and that the petitioner may suffer substantial damage by reason of its enforcement"?

I may say that I do not regard that condition as essential in order to obtain relief in the courts.

Mr. COPELAND. I do not think I do, either.

Mr. KING. I shall move to strike out that language at the appropriate time, unless the Senator consents to striking it out now.

Mr. COPELAND. I think it would not be in order until the committee amendments are completed. I ask, however, that the change suggested by the Senator from California be made.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. COPELAND. On page 28, line 7, to accomplish the same object I offer an amendment to strike out the words "in the light of the facts" and to insert at the end of the line the words "the facts or."

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. COPELAND. I offer one other amendment: On page 46, at the bottom of the page, after the word "seized", in line 25, to strike out the period and insert a comma and the words "and as regards fresh apples and fresh pears a true copy of the analysis on which the proceeding is based", so the paragraph will read:

The court at any time after seizure up to a reasonable time before trial shall, by order, allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized, and as regards fresh apples and fresh pears a true copy of the analysis on which the proceeding is based.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. McNARY. In the absence of the senior Senator from California [Mr. JOHNSON], who has been detained at home during the week by illness, I propose an amendment at his request, which I ask the clerk to state, and on which I should like to have the observations of the Senator from New York.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 10, line 9, after the word "container", to strike out down to and including line 11 and insert the following:

: *Provided*, That no standard of quality or standard of identity shall be established for any fresh natural food: *And provided further*, That in any regulations pertaining to fill of container the Secretary shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

Mr. COPELAND. Mr. President, so far as I am concerned, I have no objection to the portion of the amendment beginning with "*And provided further.*" The first part we have already discussed. If the Senator from Oregon, speaking for the Senator from California, presents an amendment so that at the end of section 303 as amended there shall be added the language:

And provided further, That any regulations pertaining to fill of container—

And so forth. I have no objection to that.

Mr. McNARY. Mr. President, I formally offer, in behalf of the Senator from California [Mr. JOHNSON], the language suggested by the Senator from New York.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Oregon [Mr. McNARY] for the Senator from California [Mr. JOHNSON], as modified.

The amendment as modified was agreed to.

Mr. COPELAND. So far as the committee is concerned, I think we have no further amendments. I now yield the floor.

Mr. BORAH. Mr. President, has the Senator from New York finished with section 303, so far as the Senator in charge of the bill is interested?

Mr. COPELAND. Yes.

Mr. BORAH. Then I should like to have the clerk read section 303 as it now stands.

The PRESIDENT pro tempore. The clerk will read, as requested.

The legislative clerk read as follows:

DEFINITIONS AND STANDARDS FOR FOOD

SEC. 303. For the effectuation of the purposes of this act, the Secretary is hereby authorized to promulgate regulations, as provided by sections 701 and 703, fixing and establishing for any food a definition and standard of identity and a reasonable standard of quality and/or fill of container: *Provided*, That no standard of quality shall be established for fresh fruits and fresh vegetables, and no standard of identity for fresh apples and fresh pears: *And provided further*, That in any regulations pertaining to fill of container the Secretary shall give due consideration to the natural shrinkage in storage and in transit of fresh natural food and to need for the necessary packing and protective material.

Mr. VANDENBERG. Mr. President, I desire to call the attention of the Senator from New York to the fact that I wish to offer the amendment, which I send to the desk in relation to the variation clause.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Michigan will be stated.

The LEGISLATIVE CLERK. On page 14, line 23, beginning with the words "no drugs", it is proposed to strike out down to the end of the sentence on page 15, line 6, and in lieu thereof to insert the following:

No drug shall be deemed to be adulterated under this paragraph if the standard of strength, quality, or purity be plainly stated on its label, although the standard may differ from that as determined by the tests or methods of assay set forth in an official compendium.

Mr. VANDENBERG. Mr. President, the Senator from New York is familiar with the fact that there has been a great deal of argument and discussion respecting the variant section of the law, and for a long time there was insistence upon the part of perfectly legitimate manufacturers that the word "identity" should be maintained. After consultations yesterday, which I think may be said to include some of the neutral experts of the city, on the subject, it has been concluded to drop the request for the maintenance of the

word "identity", and it is requested instead that the language which I have now offered shall be substituted for the sentence in question. As I understand, just two things will happen as a result, yet both those things are vital to the legitimate manufacturer.

In the first place, the physical difficulty of long definitions upon the label, which are required in the sentence proposed to be stricken out, will be eliminated. I understand the Senator from New York has no objection at that point.

The other important thing is the maintenance of the property rights which a legitimate manufacturer has in a commodity which he has perfected under a trade name.

Under the sentence, as written in the bill, the manufacturer, with his own identified commodity, must indicate upon the label that it is unofficial, and perhaps that means inferior in the event that the Board of Standards decides for itself that the manufacturer's own product should be formulated upon a different formula. The only thing in the world which is sought to be protected is the property right of the manufacturer in his own production, his own creation, his own property. Under the amendment as offered I think the Senator from New York will concede there is no possibility for any deception upon anybody in any essential situation and no possibility of an affront to the purposes of this proposed act. I wish to ask the Senator from New York if he cannot agree with me to let this substitution of this one sentence proceed as indicated?

Mr. COPELAND. Mr. President, if there is one Senator on the other side of the Chamber with whom I should like to agree, it is the distinguished Senator from Michigan. I always want to agree with a man who may sometime be President of the United States.

Mr. VANDENBERG. Mr. President, if the Senator will yield, I desire to say that that is one of those misbrandings which we are trying to prevent by this proposed legislation. [Laughter.]

Mr. COPELAND. I am sure it would not be an adulteration of civic righteousness if it should happen.

Mr. VANDENBERG. I am confident that that is so.

Mr. COPELAND. Mr. President, I cannot agree to this amendment in its entirety, for myself I am willing to agree to a part of it, then the Senator from Michigan, if he does not get all he wishes, will at least obtain part of what he is asking. However, let me now show the Senate, or try to do so, why this is not a proper amendment. I feel sorry for Senators who have not the same technical interest in this bill that I have or that some of the others of us have, but, nevertheless, this is a matter of public concern.

Mr. VANDENBERG. I feel sorry for those who do have.

Mr. COPELAND. Well, there is something in that, but on page 14 of the original bill, the Senator proposes to strike out this language:

> No drug shall be deemed to be adulterated under this paragraph because it differs from the standards of strength, quality, or purity therefor set forth in an official compendium.

Let me say to those who perhaps are not fully aware of it that there has been in existence in this country for many years a board which is nonofficial, but which is generally recognized, the Board of the United States Pharmacopœia. This board has exercised great good sense and, in the public interest, has provided standards which are useful not only to the pharmaceutical and medical profession but to the allied professions. It is a board which has done much to protect the public health.

It is very important when one has a prescription which his physician in New York has written that if he goes to San Francisco or Portland, Maine, and desires to have that prescription refilled, it shall contain exactly the same ingredients and the same strength ingredients in the new place as in the place where the prescription was originally written and filled. That is why the official compendium is so reliable; that great standard work, the Pharmacopoeia, a tremendous volume, which is revised every 10 years and may be, by supplements, amended between the periods of full revision, guarantees uniformity in drug products.

The Senator from Michigan proposes to strike out this language:

> No drug shall be deemed to be adulterated under this paragraph because it differs from the standards of strength, quality, or purity therefor set forth in an official compendium if its label bears in juxtaposition with the name of the drug a statement indicating wherein its strength, quality, and purity, as determined by the tests or methods of assay applicable under this paragraph, differ from the standards therefor set forth in such compendium.

For that provision the Senator proposes to substitute the following:

> No drug shall be deemed to be adulterated under this paragraph if the standard of strength, quality, or purity be plainly stated on its label, although the standard may differ from that as determined by the tests or methods of assay set forth in an official compendium.

That would be false on its face.

Mr. VANDENBERG. Is not that the existing situation?

Mr. COPELAND. Does the Senator mean in the bill?

Mr. VANDENBERG. No; but the existing practice today is the set-up indicated in the proposed amendment.

Mr. COPELAND. I do not think any druggist would now dare to sell as U. S. P., which means United States Pharmacopoeia, a product labeled "U. S. P.", which is presumed to be official, unless it actually conformed to the requirements.

We had some experience with "ginger jake", which proved to be an adulterated extract of Jamaica ginger. It was sold by reputable druggists because the label was so falsely written as to indicate it was "U. S. P." Of course, I realize we cannot by law make people good, but we can protect them to a great extent, at least, and we must do it so far as we can.

The Senator from Michigan proposes that any drug may be sold as official "if the standard of strength, quality, or purity be plainly stated on its label, although the standard may differ from that as determined by the tests or methods of assay set forth in an official compendium."

In other words, let us take, for example, iodine. I think the official standard requires for iodine that for every hundred cubic centimeters of alcohol there must be 10 grams of iodine. If the amendment proposed by the Senator from Michigan—and I know he presents it in all good faith, believing it is a proper amendment—should prevail, the manufacturer could put out a product labeled "iodine" which contained only 3 or 4 grams per hundred cubic centimeters of alcohol if the label stated that there were 4 grams of iodine to each hundred cubic centimeters. How would the purchaser know that the thing he purchased was standard iodine?

I say it is utterly wrong to permit the sale in the United States of drugs which are purchased by the consuming public and which they presume to be of the same standard as drugs which they have always purchased but which may be below that standard and be sold legally if the label says, "This contains 4 grams of iodine", when properly it should contain 10 grams.

I would be perfectly willing to meet the Senator half-way.

Mr. VANDENBERG. Before the Senator meets me halfway may I ask him a question to see if he cannot meet me a little further along toward my end of the road?

Do I misunderstand the situation to be as follows, using an example: Here is a manufacturer who develops cascara sagrada. It becomes an integrated trade remedy, well known, unquestionably legitimate, and produced by a thoroughly reliable, legitimate, honest, honorable producer. The U. S. P., producing this compendium somewhere, not orginating any formulas itself, not creating any compositions itself, but merely recording the achievements of others and in some degree assuming to pass upon betterments in connection therewith, recognizes the existence of cascara sagrada, but changes in some degree the formula before it is published in the compendium. Thereupon, under the language of the bill as presented, as I understand it, the original manufacturer, the discoverer, the creator of cascara sagrada, because the U. S. P. has undertaken in its discretion to change the formula in some slight manner, no longer can produce cascara sagrada——

Mr. COPELAND. According to his formula.

Mr. VANDENBERG. According to the formula upon which it had originally gained its popularity and its justified standing in the country, except as he puts upon the label an acknowledgment that it is unofficial or different in some aspects from the U. S. P., thus carrying the psychology of inferiority into the market places.

Does the Senator think that is fair to the manufacturer who has developed this thing? I am not speaking for any fakers or impostors. I am speaking from the viewpoint of some of the most reliable manufacturers in the United States, as the Senator from New York knows. Do they not possess a property right which is entitled to be respected in this aspect, and what final harm has been done to any interest if they be permitted to proceed as indicated?

Will the Senator use my example and tell me what the answer is?

Mr. COPELAND. I want to answer the Senator, but can the Senator give me any other similar example?

Mr. VANDENBERG. Yes. Ephedrin. I ask the Senator from New York not to pursue me too far into the chemical laboratory.

Mr. COPELAND. This is the point I desire to bring out. I think, as regards the two articles the Senator mentioned, he is entirely right. I think the Pharmacopoeia Board has been stiffnecked. I do think these great manufacturers, who not only make money through their operations, but do great good by their experimental work and by their laboratory work, should be encouraged. I think as regards these two particular products—and there are not many others—there has been a great injustice done.

But we are not legislating for that particular manufacturer, although the establishment in question is one of the greatest in the world. It is located in my own native State. I have known about it from my early recollection, and certainly have known a lot about it since I became interested in medicine. There is no finer laboratory or more reliable firm anywhere than that one.

As regards these two preparations, I think that concern has been imposed upon by the Pharmacopoeia Board, and I say that with all consideration to a board for which I have great respect, and for a great publication which is of vital importance to every citizen. But that does not make any difference. Even though that one firm has been discriminated against by the board in the past—and I shall refer to that again if I do not forget it—even so, when the druggist in Suffern, N. Y., buys one of these products he has a right to believe that the product is U. S. P. official. The doctor who prescribes it, who is familiar with the Pharmacopoeia, has a right to know it. It is a fraud upon the public to permit the sale of an article which is not official, and, therefore, I could not be a party to accepting the proposed amendment.

Mr. VANDENBERG. Mr. President, will the Senator yield further?

Mr. COPELAND. Certainly.

Mr. VANDENBERG. How is it a fraud if the doctor or druggist is informed, on the one hand, respecting what the U. S. P. formulas are, and, on the other hand, if they can read what the label says and truthfully says in disclosing the contents of the box? In other words, are we not merely trying to transfer some of the responsibility of the physician and the druggist to the back of the manufacturer? Is not that what it comes down to?

Mr. COPELAND. Perhaps. These products are rarely dispensed in the original boxes. It is a common practice of the profession which I used to follow to write a prescription in some unknown language and send it to the druggist. Even though the druggist fills the prescription by giving out the original bottle, he takes off the label. The label does not go to the patient. The druggist tears off the original label, which contains the information mentioned, and put on the bottle, "Prescription of Dr. COPELAND, No. 1250"—I presume I put the number too high, because that would be a good many patients, so we will say "No. 33." When my patient takes that medicine he takes something which is different from what my training has taught me to believe should be used. The substitute is not official. It is not the article which I prescribed, and therefore it is a fraudulent transaction.

Mr. VANDENBERG. Under the practice ever since the original Food and Drug Act was passed, is it not a fact that the manufacturer of cascara segrada, even though his formula differs from the U. S. P., has not been forced so to state upon the label? Is not that a fact?

Mr. COPELAND. The advice I get from the expert from the Department is that it was the practice, at least in two or three instances, and the Department has not yet heard the last of it.

Let me present an example of what I have in mind. It will appeal to the distinguished Senator from Michigan, who I know is entirely sincere—and once more I apologize for presuming to have any technical knowledge that some of the other Senators do not possess: There is sickness in the Senator's own family. He decides to call another physician, or his family physician decides he wants a consultation, and sends to Chicago for some eminent diagnostician and practitioner.

This consultant examines the member of the family dear to the Senator, and decides that a certain drug is the needed remedy. He has learned from long experience in his practice in Chicago that that drug is a valuable drug and helpful in such a case as this critical one; so he advises the family physician to give that drug; the family physician accepts the suggestion and writes the prescription. Instead of being the drug which the Chicago doctor prescribed, however, it is another drug, or another preparation, differing in standard of strength from the drug he desired to give the patient.

I am not thoroughly convinced how valuable drugs are in the practice of medicine. I sometimes have had reason to question their real value. I do not like to make any confessions to that end; but if a doctor prescribes a drug which is universally recognized as having a certain standard of strength, that is the drug which the patient ought to get; and I should not be honest with the Senator or with the American people if I did not resist this amendment.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. VANDENBERG. If the Senator were the physician who was called in to preside over the poignant situation which he defines, and he concluded to recommend cascara sagrada, would he care at all whether it was cascara sagrada as made by the originator of it and as accepted as standard for years in this country, or would he feel he had been defrauded because it was not cascara sagrada made according to the formula of the U. S. P.? Would he feel himself defrauded, or would his patient be exposed?

Mr. COPELAND. I think both.

Once more, let me say as regards that particular product that I think Parke, Davis & Co. have been imposed upon by the Pharmacopoeia Board. I say that notwithstanding the fact that there are members of the Pharmacopoeia Board in this audience this morning. But, even so, I said long ago, and repeat now as my opinion, that the Pharmacopoeia Board ought to have recognized the fine product which was originated in that great laboratory and developed there; but the Pharmacopoeia Board has not done it. But when that product is purchased in St. Louis or Tucson or somewhere else, after the doctor has prescribed it, he has a right to expect that the official standard is met by the product dispensed. That is as it should be. Let me say now what I said I desired to say if I did not forget it. I do not know whether or not I reveal anything I ought not to reveal; but I was told this morning by a distinguished gentleman who has my full confidence that the particular articles mentioned by the Senator, and some others, are to be given immediate consideration by the Pharmacopoeia Board, and that they ought to have consideration. I am not going to trust to that, however, because I am not willing to have drugs sold, allegedly official drugs, when, as a matter of fact,

they may be only half the standard prescribed by the official work, the Pharmacopoeia.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. VANDENBERG. Does it occur to the Senator that he may be invading a very important property right which might seriously jeopardize the authority of his entire proposition?

Mr. COPELAND. I cannot help it. This is not a property-right bill. We are not striving to invade the vested rights of people, of course. I reluctantly yielded yesterday and presented an amendment to protect certain food manufacturers who have proprietary rights in certain foods. I did not want to do that, but in the case of foods the conditions are entirely different from drugs, and there were reasons why it seemed wise to do it. I felt about those concerned that they had vested rights, but that was not the determining factor. I feel about the particular article mentioned by the Senator from Michigan that that concern has a vested right; but, Mr. President, I cannot help that. When we come to give drugs for disease we must take no chances. If drugs have a place in the relief of human suffering and in the prolongation of life, when the physician prescribes a given drug, that is the drug which must be given, and it is not right or proper that we should vary from that course.

I am sorry to have to take that position. I love the Senator from Michigan. If I had a hundred dollars, I would lend it to him or give it to him. I would do anything I could that would be helpful to him; but I cannot yield on this matter. I will go a little further, however. As I told him, I will meet him—it is not half-way——

Mr. VANDENBERG. Does the Senator mean, by going further, that he is going to $150? [Laughter.]

Mr. COPELAND. I have not that much. [Laughter.] I went further than the limit when I said $100.

I am willing to strike out, on page 15, line 2, the language "in juxtaposition with the name of the drug", so that it will read:

No drug shall be deemed to be adulterated under this paragraph because it differs from the standards of strength, quality, or purity therefore set forth in an official compendium, if its label bears a statement indicating wherein its strength, quality, and purity, as determined by the tests or methods of assay applicable under this paragraph, differ from the standards therefor set forth in such compendium.

I will do that. I will go that far, and I wish I could go the whole distance, but I cannot do it.

Mr. VANDENBERG. That meets half of the objection.

Mr. COPELAND. All right. That is a good deal, if the Senator gets that.

Mr. VANDENBERG. All right; but let us see if we cannot adopt my amendment and meet all the objection.

The PRESIDING OFFICER (Mr. MURRAY in the chair). The question is on the amendment offered by the Senator from Michigan [Mr. VANDENBERG].

The amendment was rejected.

Mr. COPELAND. Now I desire to complete the matter; and, as I said, I will concede the other part. On page 15, line 2, I move to strike out the words "in juxtaposition with the name of the drug."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SCHWELLENBACH. Mr. President, I offer an amendment, which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 34, line 20, after the word "carrier", it is proposed to insert a colon and the following:

Provided further, That whenever in the opinion of the Secretary it is practical, he shall attempt to make the objective inspection of food packed in a Territory or possession of the United States at the first point of entry within the territorial limits of the United States.

Mr. COPELAND. Mr. President, there is no objection to that amendment. I think it is a very excellent one.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington [Mr. SCHWELLENBACH].

The amendment was agreed to.

Mr. BARBOUR. Mr. President, I submit an amendment, which I ask to have read, together with a statement I have prepared regarding the amendment and explaining very clearly the necessity for it.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 18, line 6, after the word "Provided", it is proposed to amend section 402 (f) by inserting the following:

That no drug shall be deemed to be misbranded, under subdivision 1 of this paragraph, by reason of failure of its labeling to bear adequate directions for use, when sold for the purpose of further processing or manufacturing, for the compounding of physicians', dentists', or veterinarians' prescriptions, or for use in the arts and sciences: *Provided further*.

The PRESIDING OFFICER. The Senator from New Jersey has also sent to the desk a statement which he has asked to have read. Without objection, the clerk will read.

The Chief Clerk read the statement, as follows:

Under section 402 (f) a drug is misbranded "if its labeling fails to bear plainly and conspicuously complete and adequate directions for use." Large quantities of fine chemicals, chemical medicinals and drugs of the highest purity are shipped from one manufacturer to another for further processing and for use in the arts and sciences and to wholesalers and retailers which do not go direct as such to the ultimate consumer. As the bill now stands, all of these shipments would be misbranded and subject to seizure and penalties of the act unless they bear complete and adequate directions for use. The purpose of this amendment is to clearly exempt these fine chemicals from the requirement of complete and adequate directions for use which is a needless, cumbersome requirement for medicinal chemicals not going to the ultimate consumer. This amendment in no way reduces the requirement of complete directions for fine chemicals sold to the ultimate consumer.

To further illustrate, many fine chemicals have extensive use for industrial as well as medicinal purposes. Silver nitrate is used for mirrors and in photography and as a medicinal. Potassium iodide is used in photography and as a medicinal. Magnesium sulphate is shipped in carload lots for nonmedicinal use. The dosage or directions for use vary widely. Potassium iodide is employed as a diuretic, antirheumatic, antisclerotic, and in prescriptions for such uses the dosage would vary with the condition of the ailment, the patient, the type of treatment. Another example: Quinine sulphate is indicated for tonic use in dosage of 1½ grains, while for antimalarial medication the dosage varies up to 15 grains; quinine has over 30 uses in addition to its use in malaria.

It is obviously impracticable and needless to label such packages with complete directions for use in respect of all conditions in which the drug or chemical is indicated, in those cases where the sale is not to the ultimate consumer.

While it is possible that the secretary might through regulations provide for chemicals not going to the ultimate consumer, it is bleieved that this very important field should be clearly corrected by a definite provision in the bill in accordance with the proposed amendment. This amendment does not reduce the protection for the ultimate consumer as in all cases the chemical medicinal or fine chemical must be of standard required purity and the directions for use would apply for sales to the ultimate consumer.

Mr. BARBOUR. Mr. President, I realize that on page 22, beginning with line 7, there is a provision to which I think my good friend the able Senator from New York will probably call attention in respect to the matter of regulation on the part of the Department of Agriculture providing exemption from the labeling provision. I feel very strongly, however, that, from the standpoint of the industry and the public, it is not nearly so safe to leave this matter simply to regulations, to be developed in the future by officials now unknown, who may change from time to time and whose duties may likewise change, as it is to have a specific stipulation in the law itself to cover the situation and provide proper regulation. I am sure the Senator from New York himself is in complete agreement with me so far as the purposes I have in mind are concerned.

Mr. COPELAND. Mr. President, if I did not feel that we have fully covered the suggestion made by the senior Senator from New Jersey, so far as I could do so, I would at once accept the amendment. The Senator has already mentioned

subdivision (1), on page 22, and perhaps the Senator did not know that on line 3 we have stricken out the word "authorized" and have provided that the Secretary shall be directed. The Secretary is directed to promulgate regulations exempting from labeling such articles as those to which the Senator has referred.

I am satisfied that with this change, which was suggested by the Senator from Michigan [Mr. VANDENBERG], directing the Secretary to take such action, we are not leaving the matter to anybody. The Secretary must do what the Senator seeks to have done when the substances covered by the provision are shipped in large quantities and are not sold to the consumer. They need not be labeled, and so forth, until after they are ready actually to be sent on to the ultimate consumer. So I feel that under subsection (1) the industry in which the Senator is interested is fully protected, in view of the fact that we have not given the Secretary any option in the matter, but he must perform this prescribed duty.

Mr. BARBOUR. Mr. President, it is very reassuring to have the able Senator from New York make the statement he has just made in respect to this provision on page 22, and I feel that his statement is very helpful. Nevertheless, I should still like to have a vote on the amendment, and I hope it may be agreed to and that there will be no objection raised on the part of the able Senator from New York.

Mr. COPELAND. Mr. President, if the Senator is insisting on a vote on the amendment, I want to say that it would make the bill more or less of an absurdity if there were several provisions covering the same item. If, after the explanation I have made and the assurances I have given, and after a rereading of the language in the light of the change in this paragraph, the Senator still wishes to press for a vote, very well; but I ask the Senator not to press for a vote now.

Mr. BARBOUR. Very well, Mr. President; I will accede to the request of the Senator from New York and not now press for a vote.

Mr. BAILEY obtained the floor.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. BARKLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	La Follette	Pope
Ashurst	Costigan	Lewis	Radcliffe
Austin	Couzens	Logan	Reynolds
Bachman	Cutting	Lonergan	Robinson
Bailey	Dickinson	Long	Russell
Bankhead	Dieterich	McAdoo	Schwellenbach
Barbour	Donahey	McCarran	Sheppard
Barkley	Duffy	McGill	Steiwer
Bilbo	Fletcher	McKellar	Thomas, Okla.
Black	Frazier	McNary	Thomas, Utah
Bone	George	Maloney	Townsend
Borah	Gerry	Metcalf	Trammell
Brown	Gibson	Minton	Truman
Bulkley	Glass	Moore	Tydings
Bulow	Gore	Murphy	Vandenberg
Burke	Guffey	Murray	Van Nuys
Byrd	Hale	Neely	Wagner
Byrnes	Harrison	Norbeck	Walsh
Capper	Hatch	Norris	Wheeler
Clark	Hayden	Nye	White
Connally	Keyes	O'Mahoney	
Coolidge	King	Pittman	

The PRESIDING OFFICER. Eighty-six Senators have answered to their names. A quorum is present.

Mr. BAILEY. Mr. President, I propose to discuss the proposed legislation, having in mind the bill as amended up to the present time, and also with a view to pending amendments and certain other amendments which I shall offer and which I have been informed will be offered by others.

It seems to me the proposed legislation is of almost indescribable importance and of no less difficulty. The bill is technical. It relates to the treatment of diseases, a highly developed and yet a speculative science in which there is almost infinite difference of opinion.

The bill relates to the preparation of medicine, one of the oldest of all the arts, developing these 10,000 years, perhaps, and still developing.

The bill relates to the food which the people of the United States eat and which is sold by the merchants throughout the Nation.

The bill relates to advertisements in the press of the country, and it relates to the cosmetics with which some appear to believe that they may perhaps improve their personal appearance.

I listened this morning with interest and, I might courteously say, with illumination to the controversy between "Ginger Jake" and "Cascara Sagrada." I did not know on which side to find myself, and I do not know whether or not the lady "Cascara" defeated "Ginger Jake" in the contest which we had in this arena. But the discussion suggested to my mind just one remark to the effect that if I had to comprehend my criticisms of this legislation in one sentence I should say that it seems to me to have been conceived from the point of view of the enemies of "Ginger Jake." I do not know "Ginger Jake", but I assume from what the distinguished father of the legislation had to say——

Mr. COPELAND. Stepfather.

Mr. BAILEY. Stepfather; I thank the Senator for saying what I should not have dared to say. From what the stepfather of the legislation had to say, it appeared to me that "Ginger Jake" was a very foul and unmannerly sort of a person; and the stepfather of this legislation proposed a 49-page bill, in the nature of the law of a great republic, affecting the entire population, creating inspectors to go out into all the factories of food and of drugs and of chemicals and of cosmetics to put "Ginger Jake" out of business!

Mr. WALSH. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. WALSH. Would not the Senator like to have a quorum call?

Mr. BAILEY. A quorum call was just had. I thank the Senator for his suggestion; but the interest in this subject, and perhaps in what I have to say upon it, is not sufficient to maintain a quorum in the Senate at this stage.

Mr. WALSH. I do not agree with the Senator from North Carolina.

Mr. ROBINSON. Mr. President, may I interrupt the Senator?

Mr. BAILEY. I yield to the Senator from Arkansas.

Mr. ROBINSON. I do not agree with the Senator, either; but I do wish to point out the fact that a large number of committees are in session, engaged in very important work, and Senators find it very difficult to be here. I feel sure they would like to hear what the Senator has to say.

Mr. McKELLAR. Mr. President, will the Senator yield so that I may suggest the absence of a quorum?

Mr. BAILEY. If the Senator from Tennessee wishes to suggest the absence of a quorum I am content.

Mr. McKELLAR. I suggest the absence of a quorum.

Mr. WALSH. Mr. President, will the Senator further yield?

Mr. BAILEY. I yield.

Mr. WALSH. Is the Senator from North Carolina going to discuss the bill in detail?

Mr. BAILEY. I will say to the Senator from Massachusetts that I intend to compare the new law with the old by showing what is proposed in the way of expansion, and then say something of the implications involved.

Mr. WALSH. Mr. President, what the Senator says is always enlightening. I make the point of order that there is no quorum present.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Borah	Copeland	Gerry
Ashurst	Brown	Costigan	Gibson
Austin	Bulkley	Couzens	Glass
Bachman	Bulow	Cutting	Gore
Bailey	Burke	Dickinson	Guffey
Bankhead	Byrd	Dieterich	Hale
Barbour	Byrnes	Donahey	Harrison
Barkley	Capper	Duffy	Hatch
Bilbo	Clark	Fletcher	Hayden
Black	Connally	Frazier	Keyes
Bone	Coolidge	George	King

La Follette	Metcalf	Pope	Trammell
Lewis	Minton	Radcliffe	Truman
Logan	Moore	Reynolds	Tydings
Lonergan	Murphy	Robinson	Vandenberg
Long	Murray	Russell	Van Nuys
McAdoo	Neely	Schwellenbach	Wagner
McCarran	Norbeck	Sheppard	Walsh
McGill	Norris	Steiwer	Wheeler
McKellar	Nye	Thomas, Okla.	White
McNary	O'Mahoney	Thomas, Utah	
Maloney	Pittman	Townsend	

Mr. LEWIS. I announce the absence of the Senator from Arkansas [Mrs. CARAWAY] and the Senator from Louisiana [Mr. OVERTON], caused by illness.

I also announce the absence of the Senator from South Carolina [Mr. SMITH], who is unavoidably detained from the Senate.

Mr. AUSTIN. I wish to announce the absence of the Senator from Pennsylvania [Mr. DAVIS] on account of illness.

I also wish to announce that the Senator from Minnesota [Mr. SCHALL] is absent on account of death in his family; and that the Senator from Wyoming [Mr. CAREY], the Senator from Delaware [Mr. HASTINGS], and the Senator from Minnesota [Mr. SHIPSTEAD] are absent on official business.

Mr. McNARY. I wish to announce that the Senator from California [Mr. JOHNSON] is absent on account of illness.

The PRESIDING OFFICER. Eighty-six Senators have answered to their names. A quorum is present.

Mr. BAILEY. Mr. President, I hope the Senators who have come into the Chamber in response to the quorum call, which was had by way of courtesy to me—and I think it a real compliment that they should come in, for which I am grateful—will forgive me if, as I look about the Senate and see the vacant seats, I invoke the Scriptures and remark that—

We have toiled all the night and have taken nothing.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. WALSH. May I make an inquiry of the Senator? I make the inquiry only for the purpose of indicating the importance of what the Senator from North Carolina is about to say. Is it contemplated that a motion will be made to recommit the bill under consideration?

Mr. BAILEY. I think it should be recommitted. I do not intend to try to defeat sound legislation; but if I succeed in exposing the difficulties of the bill, I think a great deal might be accomplished. I am going to speak generally with a view to the difficulties of the bill, specifically with a view to the character of certain features of the bill, and then with a view to not only my own amendments but others which may be proposed.

Mr. WALSH. I thank the Senator.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. CONNALLY. I desire to say to the Senator from North Carolina, with respect to his remarks about the absent Senators, that none of them knew that the Senator was going to speak. I am sure there would be a larger attendance in the Senate had Senators known that the Senator from North Carolina was going to address the Senate at this time.

Mr. BAILEY. I fear the Senator from Texas misapprehended my remarks, which was said by way of humor and addressed to the vacant seats and not to those which were filled. I certainly appreciate the fact that certain Senators have come in; but, at the same time, I should like to say to them that I should not think of being offended if any one of them should feel that he could more profitably spend his time elsewhere. I understand those things perfectly, and I hope my friend understands my remark. I made it in the spirit of humor and mainly for the point of putting in a good Scripture text in the course of a few remarks on the subject of legislation.

Mr. CONNALLY. The Senator from Texas was not offended. He merely wanted the Senator from North Carolina to know that the Senator from Texas was not oblivious of the merits of his anticipated speech, and he was sure that if brother Senators had known it was to be made, they would have been here.

Mr. BAILEY. I am satisfied that the Senator from Texas was not offended, Mr. President, and I think everyone here knows it. I hope to be always void of offense. When the quorum call was made I was remarking that, if I had to comprehend my criticism of this proposed legislation in one sentence, I would say that we were undertaking to legislate about medicine, food, cosmetics, and advertising and trade and to determine the entire national policy with an utterly new law concerning food, drugs, cosmetics, and advertising wholly on the basis of our antipathies to "Ginger Jake."

My conception of legislation is not that we shall construct our statutes on the basis of an offender here or there, but on the basis of the national life and the national welfare, and that in order to restrain "Ginger Jake"—conceding that he is just as bad as the distinguished senior Senator from New York has said—I think that in restraining him we ought to have very careful regard—something more than a due regard—a very considerate regard for the great masses of our people who are without offense, who are touched in no way by the evil which we intend to correct. When we go into matters that deal with trade and commerce and advertising, notwithstanding we have in our minds the greater good of the public health, to which purpose I fully subscribe, we ought, nevertheless, so to construct the legislation as to respect the rights of the law-abiding; and I think we can do that and at the same time take every proper step to restrain the impostor, the evil-doer, and the lawless. This bill, however, is drawn in its present form in the light of evils which we all abhor, but, I suspect, without a proper regard to the rights of the great body of our people who are as inoffensive in matters of conduct as those of us who seek to make these laws which so seriously affect them. To put it in another way, I do not see the necessity of restraining all the American people by putting them under the supervision of bureaucrats. I say it respectfully, but they do exist; they are realities who, unlike ourselves, are not responsible to the people.

We consider this bill at the moment; in a few days assume that it shall have become a law, and it will then pass into the hands of men upon whom I do not intend to reflect but men who are not responsible to the people. They do not have to come up in elections and answer to the electors for the deeds done in their bureaus, but you and I, Mr. President, do have to answer. We have the say today, but tomorrow the people we represent are turned over to the tender mercies of men who stay in office 10, 20, 30, and 40 years, regardless of the will of the people.

I may make a remark here which I do not much like to make. We pass a law here affecting the rights of men under the Constitution, which ought to govern us. It is the law of the Senate, and more the law of Congress than even of the citizen; it is the one thing that binds us. But we cannot be unaware of the fact that there does seem to be in the departments at Washington a disposition to delay the determination of the constitutional rights of the citizen whom we represent under the laws which we pass.

So, Mr. President, I feel that on the very threshold of this discussion, realizing the vastness of the powers here proposed to be given and the sweeping range of the application of the sections of this proposed act that, at any rate, it becomes me—and I am sure other Senators here feel that it becomes them—to have a care that, while we undertake to restrain the wrongdoer and to protect the public, we also have a care that the rights of the great masses of the innocent-minded and innocent-living people whom we represent shall not be adversely affected in any respect.

In my absence, which I very greatly regretted, it was stated on the floor by friends of mine, and in the best of faith, that I was opposed to this proposed legislation. I read the RECORD and noticed that one Senator stated that I was its leading opponent in the committee. I am not an opponent of the proposed legislation; I am not an opponent of the objectives in view.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BAILEY. Certainly.

Mr. COPELAND. The Senator will absolve me, will he not, from that intimation?

Mr. BAILEY. I absolve all Senators, because I understand how that idea arose, and I will take the responsibility for it. I did not say that by way of criticism, either. I did offer amendments in the committee, and I am going to speak about those amendments in the course of my remarks; and perhaps I did create the impression that I was opposed to this proposed legislation.

Let me say, Mr. President, nobody could be opposed to a proper law to insure the providing of our people with pure foods, pure medicines, and I go so far as to say pure cosmetics, although that does not very greatly concern me. My opposition is not to the bill but to certain of its trends; not at all to the objective but to the means; and I hope I may find my way to vote for the measure. No one will strive more earnestly than I will, for the passage of a properly conceived act. On that point I think I can stand precisely upon the ground laid down by the President of the United States in his message to us. He stated the principles which he had in view and which I think we have in view in these words:

> The setting up and careful enforcement of standards of identity and quality for the foods we eat and the drugs we use, together with the strict exclusion from our markets of harmful or adulterated products.

I subscribe to that principle.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. BAILEY. Certainly.

Mr. CLARK. I join most heartily with the Senator from North Carolina in subscribing fully and completely to the purposes set out in the message of the President of the United States; and I should like to ask my friend from North Carolina whether, in his opinion, as a member of the committee before which this bill has been for at least 2 years, it is necessary in order to conform to the purposes set out in the President's message to wipe out all the existing fabric of law and to deprive the public of the benefit of 20, almost 30, years of decisions of courts construing the present law, in order to accomplish those purposes, or whether it would not have been better to extend and increase the jurisdiction of the Food and Drug Administration by a proper amendment to the existing law?

Mr. BAILEY. I answer the first branch of the Senator's question in the negative. I will add that I do not think the President of the United States would tolerate for a moment a piece of legislation that described crutches as "drugs" and advertising as "adulteration", carrying the English language and the law very far.

I intend to go into the bill by way of analysis after having made it perfectly clear that no man here will be found more disposed than I am to vote for a progressive and intelligent bill restraining all the wrongs that may be done by way of imposition in advertising or in drugs or cosmetics or food. But in doing that I wish to be guided by the principle which I just stated, of correcting the wrongs without impairing the rights and the liberties of the great masses of our constituents who have done no wrong and who contemplate no wrong.

So much for that. I wish to raise a question about the old law and the new bill. We have had what we may call the "Wiley pure food law" in the statutes of our country since 1906, some 29 years. As I am informed, 46 States in the American Union have founded their State laws upon that act. In addition to that there have been 28 years of judicial determination of the meaning of the statute, the words and phrases in the old Wiley law. We pay tribute to him and we pay tribute to Theodore Roosevelt for bringing forth that law. It has served the American people well.

But at this hour we are uprooting that law and undertaking to erect another. I assert that is not a proper legislative or historical procedure. The process of lawmaking, as I understand it, is a process of evolution by experience. We do not enact new statutes affecting the entire population wherever we have old statutes to which we may recur. I believe it was Blackstone who said, in his elementary but very great source of law, that in the interpretation and the construction of law it is the duty of the lawyer and the judge and the legislator to consider the old law, to consider the mischief, and then to consider the remedy with a view to making a law which is based upon the experience which has been evolved under the law that is and the law that was.

But here we tear up the foundation, we destroy the precedents, we throw ourselves out of gear with the laws in 46 States and predicate legislation upon a new basis, needlessly setting out into a new territory, creating a new body of law. What is wrong with the Wiley Act, the present Pure Food and Drugs Act? It has been amended from 6 to 10 times. As the necessities of our people demanded, it has been improved. Why should we not here take the old Wiley law and find wherein it is inadequate, find wherein it may be improved, find wherein it may meet the needs of the present time, find wherein it may accord with the principles and objectives laid down in the message of the President to us, and by way of amendment, and with the least possible friction and the most accord with the experience of our people in 29 years, why should we not take that old law for the base and build upon it in the historical process of evolution, of experience, and of legislation?

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Idaho?

Mr. BAILEY. I yield.

Mr. BORAH. This is to the layman a highly technical bill, and those who are not on the committee have less knowledge perhaps than they ought to have in order to legislate. May I ask just how far and to what extent the bill repeals and abrogates the old Wiley law?

Mr. BAILEY. I shall undertake to show the differences between the two in indicating how far the bill goes beyond the old law. I think that will meet the Senator's question.

Before I go into that matter I want to take up another phase, and that is the matter of the relation of the new bill to the Department of Agriculture. I can reconcile myself in some sort of way to a law that defines a crutch as a drug, and advertising as adulteration, but I have the very greatest difficulty in comprehending how the Department of Agriculture of the United States would ever get jurisdiction over drugs, medicine, advertising, and cosmetics. I understand the Department of Agriculture was created for the purpose of fostering agriculture in the United States and not for the purpose of governing advertising in the United States. It is inconceivable to me that it should take charge of medicine and of cosmetics and of advertising. Yet the bill proposes to have it do precisely that thing. There might be an argument that the Department of Agriculture has made such great triumphs in agriculture that it is seeking new worlds to conquer; but I believe that should someone make that boast in my presence, I should agree that it had exceeded Samson in the slaughter of pigs, but had fallen far, far short of doing as good work in the matter of cotton as has the bollweevil. [Laughter.]

That is said without animosity. That is said by way of illustration. The corn borer and the bollweevil and the little orphan pigs by the millions, the great interests of cotton and of wheat, the great interests involving the livelihood and the welfare of 30,000,000 farm population in great distress, in almost insuperable difficulty—those interests must be divided under the terms of the bill with the supervision of national advertising, and the sale and use of drugs, and the commerce in and application of cosmetics. I confess I do not understand it.

There is something of logic on earth. There is something of reasonableness. We have a great Department of Commerce. The bill comes out of the Committee on Commerce of the United States Senate. I wonder why it was not referred to the Committee on Agriculture and Forestry. The Committee on Commerce is supposed not to restrain and handi-

cap commerce, but to foster it. We restrain commerce only where it does an evil to the general welfare. For one evil that it does there are a million benefits which it contributes. Sitting as guardians of the commerce of the country and looking, as I think we should have looked, to the Department of Commerce and the Federal Trade Commission, for some reason—I suppose at the insistence of the Department of Agriculture—we abdicate commerce in favor of agriculture.

When the Wiley law was first enacted, there was no Trade Commission, but now there is a Trade Commission. While I have heard complaints since I have been in Washington of many departments and bureaus of the Government, I have yet to hear the first by way of criticism of the conduct of business in the Trade Commission. Certainly insofar as this bill relates to commerce—and the traffic in food is commerce, the traffic in drugs is commerce, and the traffic in cosmetics is commerce, and advertising is commerce—so far as the subject matter of this legislation is commercial in its character rather than agricultural, we should do the logical thing, we should do the sensible thing, and we should do the sound thing if we should seize this opportunity, now that there is a Trade Commission with well-established precedents and with direct relations to the trade of the country, to give things commercial over to Commerce; and while I should not care to go too far into comparisons, I think I am safe in saying the Trade Commission is far more qualified to deal with matters of trade than is the Department of Agriculture. I think we should do well, I think we should be constructive, I think we should be logical, if we related the bill in the first instance by proper amendments to the old law, and related it in the second instance by proper amendments to the Federal Trade Commission.

In saying that, I do not intend any reflections upon the Department of Agriculture. My difficulty lies wholly in this: I do not know how the Department of Agriculture gets any conception that it should deal with drugs, how it gets any understanding that it should control or direct advertising. They are not within the remotest conception of its functions. Nothing could be better for the Department of Agriculture of the United States than that it should be relieved of everything except the supreme need of 30,000,000 of the farm population within the borders of our Republic. It would be an aid to them, Heaven knows. If we could bring them to that, and they could master that problem, we would crown them with honor beyond the power of words to describe.

In response to the distinguished senior Senator from Idaho [Mr. BORAH], I desire to say that the old law, the Wiley law, related wholly to foods and drugs. The new proposed law relates to foods, drugs, cosmetics, and advertising. I have made some figures here. I do not know what the food bill of America is. It might be eight or ten billions of dollars conceived of as a whole, per annum; but the commercial and packaged food and the meats, I take it, I might safely say, would involve a commerce of at least $3,000,000,000. The drug commerce of America, I am informed, amounts to $650,000,000 a year, and the cosmetic trade, I am told, comes to $200,000,000 a year; and I cannot withhold the remark that I wonder that we spend so much money and get so little done in that respect.

The old law was confined to the label and the circular included in the package. The measure before us includes legislation of a very strict and comprehensive character relating not only to the label and to the circular, but to advertising; and the advertising includes not only the newspaper advertising but also the radio and the billboard and all other forms of advertising. We propose to cast all of that into the hands of a bureau which will never again be responsible to us, and which, if it follows the example of some bureaus here, will seek not to be responsible to the Supreme Court of the United States in the matter of the rights of our constituents.

I will say to the Senator from Idaho that the old law confined its description in the matters of drugs to the words "false and fraudulent"—historical words of unquestioned legal import. The new proposed law makes the description "false or misleading"; and, of course, the Senator from Idaho, being the great lawyer that he is, realizes at once that when we expand "fraudulent" into "misleading" we get out of the age-long channels of human rights into the infinitely broad channels of administrative discretion, for what is misleading is always a matter in the first instance, at any rate, of opinion. What is fraudulent always has been and always will be a matter of law. "Fraudulent" always implies intent to deceive. "Misleading" implies nothing except that one may be mistaken.

I will agree that there is no penalty and no punishment sufficient for the man who perpetrates a fraud upon innocent people. I hate and I despise a human being who will concoct a nostrum and undertake to make money out of the misery of ignorant and helpless people. I will go as far as anyone will go to put the stripes of the felon upon that sort of man; but in this bill I am asked to leave the ancient form of sound words, on which a civilization itself rests—and that is what it rests upon—to leave that ancient form, and to throw American people on their knees before a bureau in order that they may beg for mercy against the foul accusation that they have uttered some misleading word!

Mr. President, I pause there. That is the root of the matter. There is not one of us here but misleads; not intentionally, of course. We say, sometimes, more than we mean. We are often mistaken. I just now misled my very good and highly esteemed friend from Texas [Mr. CONNALLY] with a light remark. Misleading? Why, it is the history of frail humanity; and here is an alteration in a law established for 29 years in which we abandon the strict construction of the word "fraudulent", which is shot through with the intent to deceive, and substitute for it the word "misleading", which is as innocent as an angel's heart. I protest against it.

Now to go on: In each case the determination whether false and fraudulent—or, now, false and misleading—is made in the first instance by the Bureau; and the Bureau is presided over in this matter of medicine and cosmetics by a lawyer. If he were not a lawyer, he might be a doctor; and he is the judge. He sends forth his inspectors. He calls on your constituent and mine. He calls in question the American citizen with the Stars and Stripes above his head. He determines that this man has uttered misleading words. We put within the power of a man not responsible to the people of America the right of absolute destruction.

Now I go back to the beginning. I agree that we must do whatever we may do to get "Ginger Jake", but in order to get "Ginger Jake" I do not propose to have a net dragged through the entire American population, and that by people who do not have to answer at the ballot box as we have to.

Further, in the old law, when a label was false or fraudulent, it was brought before the Department and was subject to the law. Under the proposed law the label must not be misleading in any particular—in any particular whatever.

Mr. President, the pending bill is misleading in several particulars. It tells me that advertising is adulteration, and I know that that cannot be so. It tells me that crutches are drugs, and I know that that is misleading. But under the bill the label must not be misleading in any particular, and it must have medical opinion to sustain all claims, also warnings against use in pathological conditions, full and adequate directions for using; and that strict stipulation is imposed upon every human being in the United States, in the first instance, not by a judge, not by a court in which his rights can be ascertained under the law, but by the head of a bureau.

There may be need for bureaus in our Government; I would not deny that. There must be an executive department. The laws we make must be administered. But if in making the laws the Members of the Congress do not guard the rights of the people against administrators of the law who are not responsible to the people, then we not only neglect our duty, but we will reach in logical order the position in which we are responsible for what they do. I do not have to answer so much for the acts of Congress as I do

for the conduct of men who administer the laws for which I vote, under which there were brought here people who could not understand what had been done to them or why.

Mr. President, I lay down a simple principle. Assuming that we ought to have bureaus and must have administrators, and knowing that the executive department must be independent under the Constitution and ought to be under all the sanctions of experience, once we make the law, knowing that it passes into the hands of the administrator, loyalty to ourselves, to our country, and to the constituents who must live under the law makes it our duty to see to it that the law under which they must live shall be administered within bounds to accomplish the intent and purpose of the law; that and no more.

There is a practice now—and it is not modern, either; it has not originated under the present administration, but has been the practice for many years—under which criminal laws are enacted in bureaus and men are indicted and brought into court not because they have violated the law of the land enacted by their responsible representatives, but because they have violated regulations which were conceived in some office down the street and published not in statute books, but in rules and regulations, or filed in filing cabinets.

Mr. President, I make my point. Here is this proposed legislation, which affects the entire population and has a relation to commerce involving billions of dollars, touching hundreds and thousands of stores, going into every dining room and every pantry, permeating the national life as few laws we could pass here would—incomparably more personal in its application than any legislation we have had before us since I have been in the Congress. I beg you, when we propose to enact a law as far-reaching as that, that we shall at the same time lay the restraining hand upon those who have the power to frame and issue the regulations in order that you and I may not be called upon to answer for deeds of which we never conceived; in order that there may be a law in the United States and that the American people may know it; in order that the rights of a great population may be protected by the ancient standards under which laws have been made from the day of Moses to the present hour, not in little cubbyholes down in some department, but from the high mount where laws should be given, and on the tablets of stone.

Mr. BORAH. Mr. President, will the Senator yield to me?

Mr. BAILEY. I yield.

Mr. BORAH. Although I do not find the basis for the construction in the pending measure, it has been stated to me by persons deeply interested in the proposed legislation that in a trial for the violation of a regulation the defendant must prove his innocence.

Mr. BAILEY. Yes; the regulation as administered is prima facie law until held to the contrary.

Mr. BORAH. That the Government does not need to prove the guilt of the defendant, but that he must prove his innocence.

Mr. BAILEY. He must plead just as any other defendant will plead in a criminal case. The presumption is that the regulation is the law.

Mr. BORAH. I am not sure that I understand the Senator, or that the Senator understands my question. Of course, when a charge is lodged against an individual for the violation of a regulation, the Government must proceed in the first instance, must it not, to prove the case against the defendant?

Mr. BAILEY. Does the Senator refer to the trial, or to the arrest?

Mr. BORAH. I refer to the trial.

Mr. BAILEY. On the trial the Government, as I understand it, proves the regulation, and then the violation of the regulation. If the Senator has some light on that, I will greatly appreciate it.

Mr. BORAH. I am seeking enlightenment.

Mr. BAILEY. I am speaking out of some experience in the matter, and I speak wholly out of that experience, as a lawyer might without having the books before him now, out of a past which lies behind him, some distance behind him, and I say that the violation of a regulation is an offense justifying seizure and ruin without trial. If there is an accusation of crime, the Government must prove its case; all defendants in criminal actions come into court, under criminal laws, clothed with the presumption of innocence. Perhaps the confusion is due to confounding seizure of goods in libel with prosecution for crime.

I know the Senator from Idaho is a great lawyer. I am speaking out of my experience, and very definitely; but if he has a different impression, I should like to have the correction.

Mr. BORAH. I have no different impression, generally speaking. I was seeking to discover just what the proposed bill undertook to do in the way of shifting the burden of proof.

Mr. BAILEY. As I read the bill, there is no difference between the regulations contemplated in the bill and any other regulations. If I had time—and I hope I may turn the pages and find the provision—I could show that the regulations and the law are on the same basis with the regulations and the laws in respect to other acts, not only of this character but of other characters, enacted by Congress. But seizures are made and ruin may be wrought by them without trial.

Mr. McKELLAR. Mr. President, will the Senator from North Carolina yield to me?

Mr. BAILEY. Certainly.

Mr. McKELLAR. I desire to ask the Senator whether the provisions of the bill add greatly to the powers which are now possessed by the Bureau here in Washington.

Mr. BAILEY. I think so; but the powers are very great as to what are actually wrongs. This gives very much discretion. As I have just said, to take the word "misleading" and substitute it for the word "fraudulent" is an expansion in an infinite degree.

Mr. McKELLAR. In a practical sense, then, the bill very largely adds to the powers of the bureaus over advertising and over every other feature connected with the pure food and drug law?

Mr. BAILEY. Oh, yes; it very greatly expands the powers of the bureaus. I will come to that.

Mr. McKELLAR. I wish to say that I think they have too great powers now.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. McCARRAN. Carrying out the discussion between the able Senator from Idaho [Mr. BORAH] and the able Senator from North Carolina, my reading of the bill answers the question propounded by the Senator from Idaho, in that it does not shift the burden of proof in any way whatever. The burden of proof remains where it was. In order for the agency having the prosecution successfully to prosecute, it must establish guilt, and it must establish it affirmatively.

Mr. BAILEY. I am looking for the paragraph referred to. I realize that this is the tenth reprint of the bill, and I am having some difficulty in finding the provision relating to the regulations.

Mr. McCARRAN. In view of the fact that I have pending before the committee a companion bill, which bears my name, I wish to say that I have followed the course of this legislation with some considerable study; and I believe the Senator may content himself with the idea, in answer to the query made by the Senator from Idaho, that nowhere does this bill seek to shift the burden of proof. In other words, the same rules that now prevail with reference to criminal prosecutions will prevail under this bill. The violation must be proven, and its intent must be proven; and the violation of the regulation must be established, to use the expression of the Senator from North Carolina, beyond a reasonable doubt. There is no question in my mind about that.

Mr. BAILEY. The Senator takes the view I take, but the distinction lies in the difference between the power to seize goods, in which the burden is shifted, and the power to prosecute for crime, in which it is not.

Mr. McCARRAN. I agree with the Senator in that; and that is true all the way through all our legislation. In other words, we do delegate our authority to a large extent in the way of providing that certain bureaus may make regulations. The Supreme Court recently passed on that and commented

on it severely, and I think rightfully so, because the bureaus did not file their regulations so that they might become public, and thus that the average man might know what the law was. That was the general tenor of the comment of the Supreme Court. These regulations should be filed, should become public, should become a thing to guide the public; but when that is all over, and the regulations have been established, as they must be established, the burden of proof rests on the Government or the prosecuting agency to establish the guilt of those charged with offenses.

Mr. BAILEY. The burden of proof always rests with the Government bureau in prosecutions for crime, but not in actions of seizure.

Mr. McCARRAN. That is what I desired to clarify, in view of the discussion between the Senator from Idaho and the Senator from North Carolina.

Mr. BAILEY. I must confess that I do not see the difference. The burden of proof always rests upon the State to prove the guilt of the defendant. What is the distinction?

Mr. McCARRAN. The distinction is this: The Senator from Idaho asked a question, which was, if I recall it correctly, "Does this bill shift the burden of proof? In other words, must one who is accused prove his innocence?" That was the purport of the question of the Senator from Idaho.

Mr. BAILEY. I do not think so. I should not say that the bill shifted the burden of proof in criminal actions. I very seriously question whether that could be done, or ever thought of. Senators realize that we have a distinction here in the matter of seizures and the matter of criminal guilt; but I do not think anywhere in America, or in any regulation, it is conceivable that we bring a man into court and presume him guilty of crime.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. BORAH. As I said, I myself did not find in the bill the justification for the theory that the burden of proof was attempted to be shifted.

Mr. BAILEY. If the Senator wishes a flat answer to that statement, I do not think the burden of proof is shifted in criminal actions. There are instances here in which, in matters of seizure, the action is wholly within the breasts of the administrators. That is assimilated in the actions in admiralty. The offense is not made a crime; it is a libel. When we come to the criminal end of it, however, I would not for one moment suggest that the burden of proof is shifted.

Mr. BORAH. I knew it could not be shifted, but I understood there was an attempt to shift it.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BAILEY. I yield to the Senator from New York.

Mr. COPELAND. That was the case, I may say to the Senator, in the original bill, but not in the present bill.

Mr. BORAH. That undoubtedly explains it.

Mr. BAILEY. Yes. I am glad we have that matter made clear. I was totally unprepared for the question, because that sort of thing never entered my mind. I will say to the Senator from Idaho that I knew many things might be attempted here, but I did not think that sort of thing would be attempted, and I was totally unaware of the implications of his questions.

To go on with the analysis, I now come to the procedure. Under the old law there was provision for multiple seizure in adulteration or misbranding, whether injurious or not. Under the new proposed law there is provision for multiple seizure the same as in the old law, except that there are included in the proposed law advertising and false or misleading statements in advertising or inadequate warnings and directions.

Now I desire to dwell for a moment on the matter of multiple seizures. I agree that wherever an article of food, cosmetic, or drug is imminently dangerous to health, there ought to be the power to take it out of the market. I would strike it as quickly as I would strike poison. There would be no difference between the committee and myself, or the proponents of the bill and myself, in that respect. But with that for a base, this proposed law has been spread out to the point—and I wish the Senator from Idaho to get my thought in this respect, because I think it is of the utmost importance—where advertising is described for the purposes of the act as adulteration, and under adulteration by way of publication in the newspapers there may be multiple seizures; and if the head of the Bureau finds, in his opinion, that the advertising is misleading, he may proceed to seize throughout the land. That is just as much power as Julius Caesar ever asked for. The head of the Bureau can kill and make alive.

Assume that I am selling a proprietary article in every State in the Union, and the head of the Bureau reads an advertisement printed by me in a magazine and decides that the advertising is misleading, and from that decision, under this proposed act and by its power, he forms the judgment that that is adulteration. Then he declares that I am selling an adulterated article, injurious to health; he seizes my goods in 10 States in a day, or on every day; and I am ruined and destroyed before I can get back to court.

That is too much power. That is more power than the Congress ought to have.

Mr. BORAH and Mr. TYDINGS rose.

The PRESIDING OFFICER. Does the Senator from North Carolina yield; and if so, to whom?

Mr. BAILEY. I yield to the Senator from Idaho.

Mr. BORAH. Do I understand that the person whose goods may be seized is not given an opportunity to be heard?

Mr. BAILEY. His goods can be seized at once.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BAILEY. I yield to the Senator from New York.

Mr. COPELAND. The official can seize the article if he has reported to the Secretary that it is imminently dangerous to health. That is when he can seize it.

Mr. BAILEY. And he can seize it under the adulterated theory on the ground of misleading advertising.

Mr. COPELAND. No, Mr. President, he cannot. He can seize it if the advertising puts forth untruthful statements.

Mr. BAILEY. Or is misleading.

Mr. COPELAND. But he cannot seize it except where there is reason to believe that the article is imminently dangerous to the public health.

Mr. BAILEY. I said he could find that it was adulterated from the advertising, reach the conclusion that it was dangerous to health, and then make the multiple seizures.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. BAILEY. I yield to the Senator from Idaho.

Mr. BORAH. In other words, if the person who reads the advertisement in the magazine or the newspaper comes to the conclusion that the food as advertised is adulterated, he may seize the food?

Mr. BAILEY. Yes; that may be done in every State, under the multiple-seizure provision, but the person must be an official with authority.

Mr. BORAH. Yes; I understand.

Mr. COPELAND. Mr. President, will the Senator from North Carolina permit me to interrupt him?

Mr. BAILEY. I promised to yield to the Senator from Maryland; then, I will yield to the Senator from New York.

Mr. TYDINGS. I should like to ask whether or not—I presume it is impracticable—it would be possible to have an advertisement approved before it was used?

Mr. BAILEY. I cannot answer that question, but I should dislike to be put to that expedient; I should dislike to have to run to Washington and ask somebody here whether I could advertise a commodity in which I was interested.

Mr. TYDINGS. That would be somewhat inconvenient, I admit, but, at the same time, inasmuch as the Department has to pass on whether or not the article is pure, it strikes me that it would be no great inconvenience, because advertising is nothing more than describing the food or other commodity, and so it might be passed on at the same time. One of the evils complained of, as I understand the Senator from New York, is that misleading advertising is being used to induce people to buy commodities. If that be the case, if the commodity were not deleterious to the person who bought it, the advertising might be subjected to a fraud charge. While we do not want to cover too much scope, I

was wondering just to what extent the consumer was protected from false and misleading advertising as well as from the harmful contents of a package or bottle.

Mr. BAILEY. I thank the Senator. I wish to recur to this language of section 401 on page 13, which reads in part:

A drug shall be deemed to be adulterated—
(a) (1) If it is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.

That is the language of the bill. Under it we provide for a supervisor of advertising in America, and we repose in his supreme judgment the right to seize the goods of an American citizen. He says the advertising makes an adulteration that is injurious to health; I am selling my goods in 48 States; he seizes them in 40 States, and, even though I go into court a thousand times and prove he is wrong, my business is gone, for a man cannot be universally disgraced by his Government and hope to recover in a lawsuit.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. BAILEY. I yield to the Senator from Missouri.

Mr. CLARK. I call the Senator's attention to the fact that not only does the bill set up in Washington a supervisor of advertising, as the Secretary of Agriculture or his subordinate, the head of the Food and Drug Administration in Washington would be, but it sets up as many supervisors of advertising as there are localities in the United States where there are employees representing the Secretary of Agriculture, because at the bottom of page 45 appears this language:

The article shall be liable to seizure by process pursuant to the libel; but if a chief of station or other employee of the Administration, duly designated by the Secretary, has probable cause to believe from facts found by him and duly reported to the Secretary that such article is so adulterated as to be imminently dangerous to health, then, and in such case only, the article shall be liable to seizure by such chief of station or employee, who shall promptly report the facts to the proper United States attorney.

In other words, if a $100-a-month employee in the Food and Drug Administration who happens to be listening to a radio program hears an advertising claim made which he regards as misbranding, it ipso facto becomes adulterated under the definition of this bill, and, after reporting the matter to the Secretary but without being required to hear from the Secretary to get specific authority, he can go out and seize the goods and possibly ruin the manufacturer's business, or the retailer's business, as the case may be, and on his own responsibility, without any necessity for any further instructions from the Secretary of Agriculture, report the matter to the United States district attorney.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BAILEY. Certainly.

Mr. TYDINGS. I think perhaps I did not make my contention plain. Assuming that a food is pure and qualifies under the Pure Food and Drug Act, what has advertising got to do with it?

Mr. BAILEY. Assuming that the article is pure?

Mr. TYDINGS. Assuming that it is pure and is not an adulteration, what has advertising got to do with it?

Mr. BAILEY. I imagine if the Bureau head said that the advertising was misleading to somebody as to the nature of the food or its value or its character, he could proceed against it.

Mr. TYDINGS. What I am getting at is, even admitting the advertising is miseading, then the pending measure is not only a pure food and drug bill per se but it is also a bill to protect the public from misleading or false advertising about an article which per se is pure and good in itself. In other words, chopped up automobile tires might be prescribed for some disease, and, of course, that would be deleterious; but plain water might be prescribed for the disease. What if the advertisement should state that the water would cure pneumonia or whatever the disease might be, that would not affect the water; as I understand this proposed law, it is primarily to keep from the public deleterious foods and medicines; so where the advertising comes in and how it is a part of the subject matter I do not really see.

Mr. BAILEY. I am glad the Senator asked me the question, because I can explain that point to him. This proposed legislation is contrived so adroitly that whoever drew the bill—I do not mean to impute anything to anyone's motives, of course—managed to include advertising under adulteration.

Mr. TYDINGS. On what page is that found?

Mr. BAILEY. It is found on page 13, under the title "Adulterated drugs."

That was done with a view of bringing advertising under the statutes relating to adulteration, which are the strictest statutes. I have an amendment which will transfer this advertising provision to the misbranding section, and when it shall be placed in the misbranding section we will have it where it belongs, and the law will be entirely different and much more moderate. I shall offer three amendments to accomplish that purpose.

Mr. TYDINGS. Does the Senator from North Carolina have the copy of the bill which I have the print of which is dated April 2? Paragraph (a) of section 401 has been stricken out in the copy I hold in my hand.

Mr. BAILEY. If the Senator will read just below he will see what was substituted for it.

Mr. TYDINGS. The language is:

If it is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.

Mr. BAILEY. That is the same language as has been stricken out.

Mr. TYDINGS. That fact has to be established, does it not?

Mr. BAILEY. Let me make it clear to the Senator. That constitutes an adulteration. If the Senator will agree with me that that is not adulteration but misbranding, and should be in the misbranding section, I shall be entirely content.

Mr. TYDINGS. The Senator has already arrived at a solution for my dilemma if he has an amendment of that kind.

Mr. BAILEY. I have three amendments for that purpose.

Mr. TYDINGS. I cannot see why food that is good, but which might be falsely advertised, becomes deleterious because of the advertising. It is simply misbranding.

Mr. BAILEY. That is a part of the logic of the bill I cannot understand.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. CLARK. For the benefit of the Senator from Maryland, on the point he just asked as to procedure in the case of adulteration, and whether it has to be proved or not, I suggest that he read the language on page 13 just referred to by the Senator from North Carolina in connection with the language in the seizure section on page 44, particularly the language of the amendment starting at the bottom of page 45, which provides for the summary seizure of adulterated goods whenever an employee concludes that they ought to be seized.

Mr. COPELAND. Mr. President, will the Senator yield to me?

Mr. BAILEY. Certainly.

Mr. COPELAND. May I say to the Senator from Maryland that if he will turn to page 13, lines 19 and 20, he will find this language:

If it is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.

A drug might be the purest one in the world, a perfectly proper drug when used under proper conditions, but if in the newspaper advertising of it, or in the radio advertising of it, the public should be told they might take the drug in any quantity without harm to health, that would be misleading, false, and harmful; and the object is to prevent that sort of thing.

Mr. TYDINGS. Even assuming that to be so, that is entirely different from saying whether a drug or a food is deleterious or injurious per se. What I am attempting to get at, and what the Senator from North Carolina offers, is that if it is a case of false advertising or misbranding, that does not make the article itself impure. It might be prescribed wrongly; its use might be recommended in a quantity that would make it deleterious, I agree; but that would be because of the advertisement, and the fault would not be

in the article which is advertised. There ought to be a section against fraud, but there is no reason to go out and seize an article if it is all right simply because it has been wrongly advertised over the radio.

For example, let us suppose that some drug, calomel, for instance, is properly labeled on a bottle which is held out for sale; and let us suppose that somebody recommends that 25 grains of it be taken before each meal. That would not make the calomel any worse than if the properly prescribed dose had been ordered. The point in that instance is not that the medicine is deleterious but that the advertising is erroneous; and certainly we do not want the medicine seized when it is properly branded simply because somebody erroneously or falsely misrepresented its value over the radio.

Mr. COPELAND. Will the Senator from North Carolina permit me to interrupt there?

Mr. BAILEY. Certainly.

Mr. COPELAND. The Senator wants in some way to stop misleading, false, and harmful statements?

Mr. TYDINGS. Yes.

Mr. COPELAND. What difference does it make?

Mr. TYDINGS. What difference does it make?

Mr. COPELAND. Yes, what difference does it make?

Mr. TYDINGS. My illustration was not very apt. Let me give a better one. Let us suppose that someone starts to produce vinegar, and it is labeled as a certain kind of vinegar; we will call it "Western vinegar", for want of a better name. Suppose someone "goes on the air", and says, "You should drink a pint of Western vinegar before each meal as a health-producing beverage"; that would not make the vinegar deleterious; the vinegar would be perfectly good vinegar; it would not do to go out and seize the vinegar because somebody had falsely advertised it.

On the other hand, the public ought to be protected against false advertising. That would be no excuse for seizing the vinegar.

Mr. COPELAND. The unfortunate thing about the illustration is that that sort of thing does not enter into food.

Mr. TYDINGS. I just took a food for illustration.

Mr. COPELAND. There is no such provision as the Senator from North Carolina is discussing that relates to food. It applies to drugs.

Mr. TYDINGS. Suppose someone, to cause a greater consumption of some drug that is not deleterious in its effects, advertises that more than a healthful dose should be used, to get fat, to get thin, to keep well, or for whatever reason; that would be no excuse for going out and seizing the article itself if it were branded properly, would it?

Mr. COPELAND. I have in my hand an article such as the Senator has in mind, for the reduction of fat. We will not name the article.

Mr. TYDINGS. What about it?

Mr. COPELAND. The radio man, the advertiser, says it is a perfectly harmless preparation and should be used. Certainly the Senator does not want the American people to be given products which are harmful. There ought to be some way to reach them, and this is the way by which we are reaching them.

Mr. TYDINGS. Suppose this preparation which the Senator has just handed me and which I hold in my hand, properly taken, two capsules before each meal, is not injurious. Let us suppose, on the other hand, that six capsules taken before each meal would be injurious. Suppose the directions on the box say to take two capsules before each meal, but some enthusiastic advertiser over the radio says, "You ought to take 6 capsules before each meal instead of 2." Would the Senator then favor going out and seizing all of the preparation in the country when the harm done has been in the false advertising rather than in the drug being injurious in itself?

Mr. COPELAND. If the Senator will bear with me——

Mr. TYDINGS. If the Senator will answer my question I shall bear with him.

Mr. COPELAND. I was asking the Senator from North Carolina, who has the floor, to bear with me.

Mr. TYDINGS. If the Senator from North Carolina will let the Senator from New York answer my question, I will bear with him, too.

Mr. COPELAND. This particular article——

Mr. TYDINGS. Will the Senator answer my question, using the illustration I put to the Senator, where the article itself is not injurious but a dose is prescribed which is injurious. Would the Senator say the article ought to be seized in every drug store in the United States?

Mr. COPELAND. If the article is dangerous to health, under the doses prescribed on the label or the advertising thereof, it should be seized.

Mr. TYDINGS. Let us suppose it is not injurious, but that the radio advertising prescribes such doses as would be injurious.

Mr. COPELAND. Then action should be taken.

Mr. TYDINGS. What action would be taken?

Mr. COPELAND. The radio licensee——

Mr. TYDINGS. Oh, no! Under the Senator's bill, as I understand, the agent of the bureau would be justified in seizing every box of that article in the country, notwithstanding the branding on the box was a proper branding.

Mr. COPELAND. But it is not. Will the Senator read the language of the bill?

If it is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.

This article is dangerous to health in the labeling and the advertising.

Mr. TYDINGS. With all due respect and perhaps because I have not made it clear, the Senator is evading the question I am putting to him. The article is not harmful. The article is properly labeled, but the radio program advertising is erroneous, it is false, it induces a quantity to be used greater than the amount stated on the label. What would the Senator do in that case?

Mr. COPELAND. There would not be any action then except against the man who gave the copy to the radio advertiser.

Mr. TYDINGS. What action would there be against him?

Mr. COPELAND. If it was false advertising, there would be a penalty for it.

Mr. TYDINGS. Where is the penalty found?

Mr. COPELAND. With the manufacturer and not the advertiser.

Mr. TYDINGS. Would that come under the United States district attorney or the Pure Food and Drug Bureau?

Mr. COPELAND. It would be reported by the Pure Food and Drug Bureau to the United States district attorney.

Mr. TYDINGS. The Senator would not want the article seized in that case throughout the entire United States?

Mr. COPELAND. Not unless it came under this provision of the bill.

Mr. TYDINGS. That is what I have been trying for 10 minutes to get the Senator to say. It does come within the provisions of the bill.

Mr. BAILEY. Mr. President, I will resume with a view to concluding. The point in the colloquy between the Senator from New York and the Senator from Maryland is wholly the making of a distinction between adulteration and misbranding. No one objects to proper measures to take hold of and get out of the channels of commerce adulterated articles which are injurious to health. The unfortunate thing about the bill is that it takes a misbranded article, or the advertisement by way of some inaccurate statement as in the character of adulteration, and applies to it the strict law of adulteration. My amendment would take the advertised article on the basis of the false advertisement and put it where it belongs, under misbranding, and then would permit one seizure. There is a vast difference between destroying an injurious poison or product, and a proper action to take charge and proceed in a considerate way protective of the rights of the people under the misbranding act.

Mr. President, for one reason and another I have remained on my feet and talked a great deal longer than I had intended.

Mr. McKELLAR. Mr. President, will the Senator yield at that point?

Mr. BAILEY. Certainly.

Mr. McKELLAR. Will the Senator express an opinion about this point? As I gather it, the necessary result of the legislation as explained by the Senator means that every business house dealing with foods or drugs, which advertises its wares, will of necessity have to come to Washington and have its advertisements passed on by a bureau here before it can advertise.

Mr. BAILEY. I think that is the consequence. That is one of the things I hope to avoid. And there will also be wide exposure to inspection.

Mr. McKELLAR. Yes; that is something that ought to be avoided.

Mr. COPELAND. Mr. President, has the Senator from North Carolina prepared his amendments?

Mr. BAILEY. I have my amendments here. I am about to conclude.

Mr. COPELAND. May I see the amendments the Senator proposes to offer?

Mr. BAILEY. Certainly. Let me say to the Senator from New York that the first two amendments merely transfer the advertising feature from the adulteration section of the bill to the misbranding section. The third amendment makes the matter complete by authorizing one seizure action in cases of misbranding instead of the multiple seizures.

Mr. VANDENBERG. Mr. President, may I ask the Senator from North Carolina if the final amendment which he offers is to section 711?

Mr. BAILEY. Yes; on page 45, line 7.

Mr. VANDENBERG. If the Senator will permit me, I desire cordially to concur in what he said at that point, and to urge upon the Senator from New York the utter justice of the amendment and the propriety of its acceptance.

Mr. BAILEY. Mr. President, I wish to conclude. I am for the legislation. I have spoken very earnestly against excessive powers and against certain abuses by way of confusing advertising with adulteration. I have tried to speak constructively. I do not wish to destroy the legislation. On the other hand, I wish with all my heart to accomplish to the utmost degree the spirit and the objectives of the President's message. I wish to fulfill all the fine hopes of refinement and improvement upon the Wiley Act, which has served the American people very nobly.

I shall conclude with this statement from the President, contained in his message of March 22:

> The great majority of those engaged in the trade in food and drugs do not need regulation.

He did not contemplate that we should put regulations upon them.

> They observe the spirit as well as the letter of existing law. Present legislation ought to be directed primarily toward a small minority of evaders and chiselers.

Submit such a measure, and no Senator will be found more heartily disposed to go the limit of his capacity to bring about its passage than myself.

I thank the Senate

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 255. An act for the relief of Margaret L. Carleton;
S. 274. An act for the relief of Charles C. Floyd;
S. 906. An act for the relief of Chellis T. Mooers;
S. 1391. An act for the relief of William Lyons;
S. 1520. An act for the relief of Charles E. Dagenett;
S. 1621. An act for the relief of Mrs. Charles L. Reed;
S. 1694. An act for the relief of C. B. Dickinson; and
S. J. Res. 21. Joint resolution authorizing the President to proclaim October 11 of each year General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski.

REGULATION OF TRAFFIC IN FOOD, DRUGS, AND COSMETICS

The Senate resumed the consideration of the bill (S. 5) to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drink, drugs, and cosmetics, and to regulate traffic therein, to prevent the false advertisement of food, drink, drugs, and cosmetics, and for other purposes.

Mr. AUSTIN. Mr. President, I send to the desk an amendment, which I should like to have incorporated in the bill.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). The amendment will be stated.

The LEGISLATIVE CLERK. At the bottom of page 51 it is proposed to insert the following new subsection:

> (h) Notwithstanding the provisions of section 876 of the Revised Statutes, subpenas for witnesses who are required to attend a court of the United States in any district in which cases from various jurisdictions are consolidated under this section may run into any other district.

Mr. AUSTIN. Mr. President, to explain this amendment——

Mr. COPELAND. May I ask the Senator on what page it is to be inserted?

Mr. AUSTIN. At the bottom of page 51 I propose to insert a new paragraph to enable the courts in districts in which cases are consolidated to reach witnesses in the districts from which the consolidations are made.

Mr. COPELAND. I am in the fullest sympathy with the amendment, and I hope it will prevail.

Mr. AUSTIN. Very well, then, if the question may be put on the amendment without explanation.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Vermont.

The amendment was agreed to.

Mr. BAILEY. Mr. President, I send to the desk the three amendments to which I referred in the course of my remarks. When they are considered I shall ask that they be considered together, as they are part of one whole. They relate to different sections, and therefore had to be written separately; but I should like to have them considered as one amendment.

The PRESIDING OFFICER. The amendments offered by the Senator from North Carolina will be stated.

The LEGISLATIVE CLERK. In section 711 (a), on page 45, line 7, it is proposed to insert a semicolon after the word "found", and to add the following:

> *Provided, however,* That not more than one seizure action shall be instituted in cases of alleged misbranding, except upon order to show cause, and then upon a showing by the Secretary that such article is misbranded in manner or degree as to render such article imminently dangerous to health, or that such alleged misbranding has been the basis of a prior judgment in favor of the United States in a criminal prosecution or libel for condemnation proceeding respecting such article under this act; and provided further, that said single seizure action shall, on motion, be removed for trial to a jurisdiction of reasonable proximity to the residence of the claimant of such article.

In section 401 (a) (1), on page 13, it is proposed to strike out all of lines 19 and 20.

In section 402, on page 16, it is proposed to insert a new subsection between lines 2 and 3, to be designated as (b), and to read as follows:

> If it is dangerous to health under the conditions of use prescribed in the labeling or advertising thereof.

Mr. COPELAND. Mr. President, before giving consideration to these amendments I desire to discuss the matter somewhat at length. I ask the leader of the majority what is his wish?

Mr. ROBINSON. Unless there is objection, I shall move an executive session.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. ROBINSON. Yes.

Mr. CLARK. I send to the desk sundry amendments which I intend to propose to the bill, and ask that they may be printed and lie on the table. In the case of a series of amendments having to do with the jurisdiction of the Federal Trade Commission, while they necessarily involve amendments to several different sections, I ask that they may be printed as one amendment for consideration in that way.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be printed and lie on the table.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of several postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). If there be no further reports of committees, the clerk will state the first business on the Executive Calendar.

POSTMASTERS

The legislative clerk proceeded to read the nominations of sundry postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

That concludes the calendar.

RECESS

Mr. ROBINSON. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 3 o'clock and 28 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Thursday, April 4, 1935, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 3 (legislative day of Mar. 13), 1935

POSTMASTERS

MISSISSIPPI

Ira I. Massey, Ethel.

PENNSYLVANIA

John J. Roll, Natrona Heights.
James M. Herrold, Fort Trevorton.
Ruth B. Walker, Unity.

TEXAS

Amos H. Howard, Lubbock.

HOUSE OF REPRESENTATIVES

WEDNESDAY, APRIL 3, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Incline Thine ear, our Heavenly Father, and hear us, and may we not be ashamed to confess Thee before men. Direct us by the inspiration of that altruism taught by the Master and fulfilled in His exemplary life. This is the jewel of revelation flashed out of the mines of eternity. We pray that the passion to serve may beat in our blood; having this compulsion, do Thou shine upon our paths with heavenly luster. Give us strength to crowd out of our lives evil desire and sinful tendencies; in all things may we hallow Thy name. Almighty God, we come to Thee for help and guidance, for upon this Congress rest great and solemn responsibilities and the issues are tremendous. O be consciously near all Members, dominate our thoughts and acts, and in all things may we be wise, just, and noble. For Thy name's sake. Amen.

The Journal of the proceedings of yesterday were read and approved.

PERSONAL PRIVILEGE

Mr. BLANTON. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state his question of privilege.

Mr. MAPES. Mr. Speaker, will the gentleman withhold his request for a moment that I may make an announcement?

Mr. BLANTON. Mr. Speaker, I withhold my question of personal privilege to allow the gentleman from Michigan to make an announcement.

EDWIN F. SWEET

Mr. MAPES. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes to announce the death of a former Member.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MAPES. Mr. Speaker, the morning's paper carries the notice of the death, in California, of a former distinguished Democratic Member of the House, who represented the Fifth Congressional District of Michigan in the Sixty-second Congress—Hon. Edwin F. Sweet. He died at the ripe old age of 87. After his service in the House, he served as Assistant Secretary of Commerce during the 8 years of the Wilson administration. He was an honored and highly respected citizen and a capable and patriotic public servant.

REFERENCE OF BILLS

Mr. JONES. Mr. Speaker, will the gentleman from Texas permit me to ask unanimous consent for the reference of certain bills before he presses his question of personal privilege?

Mr. BLANTON. Mr. Speaker, I yield for that purpose.

Mr. JONES. Mr. Speaker, I ask unanimous consent that the bills—

S. 464. An act to add certain lands to the Malheur National Forest, in the State of Oregon;

S. 462. An act to authorize an extension of exchange authority and addition of public lands to the Willamette National Forest, in the State of Oregon;

H. R. 5925. A bill to add certain lands to the Malheur National Forest, in the State of Oregon; and

H. R. 1418. A bill to authorize an extension of exchange authority and addition of public lands to the Willamette National Forest, in the State of Oregon; be referred from the Committee on Agriculture to the Committee on the Public Lands, with the understanding that this does not in any way affect the general jurisdiction of the Committee on Agriculture over the question of the national forests. The Parliamentarian advises me that there was an error of reference in the first place.

Mr. SNELL. Mr. Speaker, reserving the right to object, as I understood the statement of the gentleman from Texas it was that there had been a mistake in the original reference, and that these bills should have gone to the Committee on the Public Lands.

Mr. JONES. That was my impression from what the Parliamentarian told me. It merely involves the transfer of some public lands to the Forest Service.

Mr. SNELL. And they are bills that properly should go to the Committee on the Public Lands?

Mr. JONES. That is my understanding.

Mr. RICH. Mr. Speaker, reserving the right to object, are these administration bills?

Mr. JONES. I may state to the gentleman that I am not informed; we have not gone into the merits of the bills. I understand some of them may be of interest to the administration, but I cannot give the gentleman definite information.

Mr. RICH. Does the gentleman know whether they are from any particular department of the Government?